

12
A LETTER

TO

SIR ROBERT INGLIS, BART., M.P.,

ON CERTAIN STATEMENTS

IN AN ARTICLE OF THE EDINBURGH REVIEW, No. 193, ENTITLED
"BISHOP PHILLPOTTS."

BY HENRY, LORD BISHOP OF EXETER.

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THE BISHOP OF EXETER writing to a friend in the American Church, says: "You have probably seen or heard of a very scurrilous attack on me in the EDINBURGH REVIEW. If that journal were circulated only in England, and were not likely to last as a portion of the standing literature of the land, I should not think it worthy of notice. As it is, I have not read the article, but, trusting to the judgment of friends to inform me of the particulars which are worth noticing, I have prepared an answer, which will come forth immediately. I should be very glad if this should have currency in America."

A LETTER,

&c.

&c.

Bishopstowe, 20th Jan., 1852.

MY DEAR SIR ROBERT,

I THANK you for specifying to me the time and place of a conversation which I held with you on the subject of the "Roman Catholic Question"—it was, you say, about the end of August (I rather think early in September), 1828, "when we met casually in Charlotte Square, Edinburgh." In that conversation you may remember that our opinions differed—that I expressed my persuasion that concession could not be long deferred, and that the friends of the Church ought to do their utmost to devise such securities as might make it as little dangerous as possible. In expressing your dissent, you said then (what I believe you had often said to me and others before), "The only security is exclusion."

A recollection of this conversation, as well as the long friendship with you which I have had the happiness to enjoy (now for forty-eight years, as you kindly remind me), has induced me to ask—what you have most readily given—your consent to my addressing publicly a Letter to you on certain statements made in the number of the Edinburgh Review which has just appeared, charging me, *inter alia*, with base and treacherous conduct relative to the measure which was the subject of that conversation.

I have not read the Review myself, for I make it my rule never to read anonymous attacks on me. But seeing casually the Advertisement which announced my name, in the list of articles of the recent number, I desired a friend, on whose judgment I could rely, to inform me whether there are in it any matters which require my notice. He has stated to me, that there are two such matters—first, that which I have mentioned; and secondly, what relates to a trial for libel at Exeter in March, 1848, arising out of a speech made by Lord Seymour to his constituents at Totnes.

I will consider these two particulars separately—and, first, that which is most interesting to us both—my conduct in respect to the Statute of 1829, commonly called "The Roman Catholic Relief Act."

The Review, I am told, contains the following passage:—

"The Government, which carried Catholic Emancipation, was a Tory Government; and Tory statesmen naturally desired to avert the loss of that clerical support, on which their power had so mainly depended: they knew the prejudices of the Clergy, and felt how much they would be shocked by the passing of the measure; and they reasonably wished to secure the support of that one of its most prominent ecclesiastical opponents, *who had opposed it especially on religious grounds, and had most successfully enlisted clerical passions against it*. His conversion and his arguments, it was hoped, might convince, or at least silence, many, who hitherto had hung so fondly on his words. Accordingly the conversion of Dr. Phillpotts was effected at this critical juncture. He wrote* in favour of the Bill, and he voted for the author of the Bill, at the memorable Oxford election of 1829."

The last part of the assertion in the preceding passage is true, and I have no difficulty in stating the reason for which my vote was so given.

It had been, as it still is, the honourable distinction of the University of Oxford, when once it has elected a Representative in Parliament, to continue to him the undisturbed possession of his seat, unless he should forfeit the confidence of his constituents by some flagrant departure from the principles which ought to actuate public men. Upon this occasion, the question, which was to decide the votes of the electors, was not whether they approved the Bill which had passed, but whether Sir Robert Peel had, by introducing it, deserved to forfeit the confidence of his constituents. It was my undoubting judgment that he had not, and I felt myself bound to vote for him

* *I do not believe that I ever so wrote, even in a private letter, and when my hopes of what the Bill would be were most sanguine. I am confident that I did not. After I had heard the details of the Bill stated in the House of Commons by Mr. Peel, publicly I wrote nothing. But if the Reviewer can produce anything of the sort—whether publicly or privately written—let it be produced.*

accordingly, in opposition to the wishes and the judgment of many whom I most valued. I knew (or believed on grounds as satisfactory as knowledge) that Sir Robert Peel had been brought to a conviction of the impossibility of any longer effectually resisting the demand for concession to the Roman Catholics. I knew that he had stated this his conviction to King George IV., and, having stated it, had entreated permission to resign his office—thinking it better for his Majesty's service that the measure should be carried by statesmen who had always supported it, than by those who had hitherto resisted it. I knew that the King had refused the permission which was asked, and had required that those ministers who had advised the necessity of concession, should themselves give him their services in effecting it. Sir Robert Peel, in yielding to his Sovereign's very reasonable demand, thought it right to give to his constituents an opportunity of declaring whether he had thereby forfeited their confidence. As one of those constituents, honouring the integrity with which I knew he had acted, I deemed it my very plain duty to testify that feeling by continuing to vote for him.

And now for my own conduct in respect to this measure. It has been asserted again and again that I had—to use the language of this Review—been “one of its most prominent ecclesiastical opponents, who had opposed it especially on religious grounds, and had most successfully enlisted clerical passions against it.”

What was the fact? So long ago as the autumn of 1812, or the spring of the following year, Bishop Barrington of Durham, whose chaplain I then was, and on whose patronage my future preferment depended, communicated to me his wish, that there should be a petition to Parliament from the Clergy of that Diocese against the Bill, which it was announced that Mr. Canning was about to introduce. I at once told my Bishop that I could not join in such a petition; that my own opinion was in favour of concession, if accompanied by adequate securities for our own Church; adding, if I remember aright, that the statements of Mr. Pitt and Lord Grenville had made me believe that such securities could be provided. The Bishop received this declaration of my adverse opinion with the kindness and candour which were a distinguishing part of his truly Christian character. He applied to others who thought with him; a meeting of the Clergy was called by the Archdeacon, at which, the petition having been proposed and seconded, I addressed the meeting at some length, and concluded with moving an amendment expressing confidence in Parliament, that no such Bill would receive its support unless due securities were provided for the Church and its permanent connection with the State. A division took place, and I had the satisfaction of finding the majority adopt my amendment. There must be some alive, who were present at that meeting. Let them correct this statement, if it be inaccurate.

The same views continued to actuate me, though I confess with decreasing confidence in the statesmen who advocated concession. In 1829 I published “A letter to Earl Grey on his Speech in moving the Second Reading of his Bill for Abrogating the Declarations commonly called the Test against Popery, by a Clergyman of the

Diocese of Durham.” This publication I sent to Lord Grey and the other Lords on whose several speeches I had made any remarks, together with letters to every one of them, avowing myself the author. In 1826 I appended it, with my name, in a second edition of my “Letters to C. Butler, Esq., on the Theological parts of his Book on the Roman Catholic Church.”

The second paragraph of my Letter to Earl Grey is as follows:—

“Your Lordship need not be apprehensive that I am about to obtrude upon you an argument on what is commonly called ‘the Catholic Question.’ That question seems to me so purely political, it is beset on both sides with so many difficulties, and involves so many conflicting considerations, which men of my profession are little likely, either from their studies or their habits, to appreciate correctly, that I would at all times rather avoid than court its discussion. On the wisdom of Parliament, and on its steady and approved attachment to the Established Church, I confidently rely, that whatever course be finally adopted, whether of withholding or of granting what is asked, the real interests of that Church will always be regarded as of prime and fundamental importance; that no motive of temporary expediency will be deemed sufficient to justify a departure from the standing policy of the British Constitution; and that no concessions will be made, which Parliament, in its deliberate judgment, shall not find compatible with the security of the Church, and its permanent union with the State.”

The first or introductory Letter to Mr. Butler, stating ‘Reasons for the present Publication,’ contains the following passage:

“At any period, and under any circumstances, I should have judged it right to expose so important a misstatement as I consider yours to be; and I am not prevented from so doing by an apprehension that I may be thought desirous of supporting one side or a great political question by the indirect influence of a theological argument. To say the truth, *the connection of the political and theological questions does not appear to me so absolutely inseparable as many wiser men than myself continue to regard it.* But, at any rate, you, and those who act with you, have not a shadow of right to complain on this ground. You have sought to strengthen your political cause by mixing with it a statement of the theological dogmas of your Church. Now, let those dogmas be truly stated (and the truth, when disputed, can only be ascertained by evidence and argument), and then let their final bearing on the political question be that, and only that, which truth shall warrant.”

Such were the public declarations of my sentiments up to the end of the year 1826: it was thus that I “had opposed the measure, especially on religious grounds”—and “enlisted clerical passions against it.”

We now come to the important year 1827. But, before I proceed, I wish to state that at that time the only members of any Government with whose friendship I had been honored—the only ones to whom I had ever spoken, except in casually meeting them at table—were the late Lords Sidmouth and Eldon: to the latter I had the honour of being in affinity, for my wife was niece of his lady. In 1822 or 1823, a commu-

nication was made to me, as I understood, from Lord Liverpool, asking whether there was any bishopric in Ireland which I could be induced to take. It was at the same time told me that it was not my English preferment which was wanted, but myself. At that time the See of Clogher was vacant, with an income, as I believed, of 14,000*l.* per annum. I declined the offer, having in truth no willingness to go to Ireland; as I held the rectory of Stanhope, which was fully adequate to all my wishes. I was subsequently told by Bishop Barrington that he thought it likely I should be placed on the English bench. I expressed surprise, and no desire for such a station. But, as the Bishop had an apprehension that the rectory of Stanhope might become at the disposal of the Government, I at that time, if I mistake not, renewed a promise made by me when I received that rectory, that, although I would not bind myself by any engagement which might involve me in difficulty, yet during his life I would not accept a bishopric without his consent, nor after his death, unless I should think that, if he were alive, he would approve my acceptance of it. I added, with perfect sincerity, that I had no wish to be made a Bishop—the largeness of my family seeming to me to make it undesirable.

These are matters of autobiography, which I little thought of ever making public, and which I am well aware are open to the objection that the statement of them rests solely on my authority. Still they illustrate, I think, my public conduct.

In 1827, I addressed those Letters to Mr. Canning, which excited more attention than I had anticipated. An examination of them must satisfy all who will take the trouble of making it, that they were not written by one who deemed it impossible that securities should be devised which would render concession both expedient and safe. I cite in particular the following passage (pp. 158-160):—

“Sir, it has sometimes passed as a day-dream through my mind, how happy for us it would have been, if you had been reserved to the present hour, free and unshackled, to follow the dictates of your own judgment, in discerning the fittest course to be taken with this question, and to employ the resources of your own views in recommending that course to others. What your exact plan would be I do not presume to guess;—perhaps your Bill of 1813, with more or less of modification, if necessary,—but, above all, with some means of continuing the exclusion of those who would not renounce that most mischievous of all their dogmas, that great practical heresy, which would make our admitting them to legislate for a Protestant Church to be little less than an act of suicide;—I mean the tenet, ‘that all men are bound, of necessity to salvation, to be subject to the Pope, and to be members of the Church of Rome.’ I will hazard the charge of presumption by venturing to sketch a test, founded on this principle, in lieu of the denial of the doctrine of Transubstantiation, &c.

“I, A. B., do declare, in the presence of Almighty God, that I do not hold, nor believe, that it is necessary, in order to their eternal salvation, that His Majesty King George, or any of his liege people, being Protestants, be, or shall become, in any way subject to the Pope, or to any authority of the See of Rome: and I do declare, that I do not hold, nor believe, that the Protestant Church of England and Ireland, as by law established, is in such wise hereti-

cal, that any of the members thereof are, on that account, excluded from the promises of the Gospel, or cut off from Christian salvation; and I do faithfully promise and swear, that I will not use any power, right, or privilege, which does, or shall, to me belong, for the purpose of destroying, or in any way weakening, the Protestant Church, and the establishment thereof, as it is now by law maintained: so help me God.”

“Sir, I bear no man’s proxy, and am not sure that such a test would satisfy any other individual of any party.

“That it would not satisfy the Irish leaders, I am well aware and, in plain truth, I should have no sort of confidence in any that would. That it would be offensive to the Church of Rome, and to all the bigoted members of that Church, I have as little doubt, and for that very reason I should have more reliance on its efficacy. The great desideratum has always been to separate between the bigots and the moderate members of that Church; to bear with as light a hand as possible on the latter, and to control the hostility of the former with the most effectual restraints that the wisdom of the Legislature can devise. I should hope that among the noble and the educated laity of that communion, both in England and Ireland, many would be found who would spurn the mandates of their Church, if she would refuse to let them give to their Protestant countrymen such a security for the safe and honest exercise of their functions as legislators.”

In looking back at this passage I frankly own that I do not think it was marked by “absolute wisdom,” though I do not the less claim it as a testimony of my sincerity.

Not long after the publication of this Letter to Mr. Canning, I received a communication through Lord Stowell, who honoured me with his friendship, that his brother, the Chancellor, was much dissatisfied with the passage which I have cited. I answered that I had expected it would be unsatisfactory to his Lordship; but, that, as I was addressing the public on a public question, I must express honestly my own sentiments, not the sentiments of others, how much soever I might respect their judgment. Similar intimations of Lord Eldon’s opinions were made by other members of the family.

The year 1827 passed away. Early in the following year, I published ‘A Letter to an English Layman on the Coronation Oath’—my last publication before the Bill of 1829 was introduced. Of this publication the Reviewer, I understand, has said—“his strongest work against Emancipation being published the very year before he assented to the measure.”

With what truth this is stated, will appear from the following extract:—

“Application of the preceding Argument.”

“I have thus endeavored to prove that the Oath taken by the King at his Coronation has a most important bearing on the great question of concession to the Roman Catholics; and I think it has been made manifest, that the Oath does most undeniably restrain the King from concurring in any Act, for that or any other purpose, of which his Majesty is not in his conscience assured, that it neither overthrows, nor seriously endangers, any part of the Protestant Church Establishment, in England or in Ireland.

“If this be so, the first inquiry, respecting the ap-

plication now made to the Legislature by the Roman Catholics, ought to be, whether they ask for that which it is inconsistent with his Majesty's Oath to grant. If they do (and most certainly they do), it is the kinder course of proceeding towards the applicants themselves, as well as the wiser and more considerate for the preservation of public tranquility, to say to them at once, 'What you ask, it is impossible for us to grant. We are ready to do the best we can for you, and shall sincerely rejoice, if we find that we can do much. But, remember, that with the best possible disposition towards you on our part, your success is much more in your own power than it is in ours. The course you have of late pursued is the very worst you could have chosen; and if you have been sincere in the language you have used, the principles you have avowed, the objects you have proclaimed, you must think us the most incapable set of dastards that ever were entrusted with the interests of a great country, should we give ear to you for a single hour. You ask for "*total, unqualified, unconditional*" concession. How can you be so absurd? The wise among you know that this you cannot have—the honest do not desire it. You call your demands, the "just and indefeasible rights of men and citizens." What nonsense is this! Your very oracles, Dr. Doyle and Mr. O'Connell, have admitted the contrary; they have admitted that, during the time of the Stuarts, it was "necessary for the English Government to pass restrictive laws against the Roman Catholics,"*—in other words, that the Legislature must exercise its discretion, when, and what, restrictions shall be imposed. Go home, then—try to make us forget, by your peaceable and rational conduct, the folly of your body, and the worse than folly of your leaders. We wish to give you all that can be given with safety to those objects, which, whatever you may think of them, are, in our estimation, fundamental, essential, indispensable. The security of our own Church is the first of these objects—to consult for it the most imperative of all our duties;—and even if we could be base enough to desert it, the King will not. He knows that he is bound by his Coronation Oath to maintain that Church "*to the utmost of his power*;" and, if we should propose to him to violate his oath, the only result would be to manifest his firmness, and to bring hatred and contempt on ourselves. He, like his illustrious father, would be ready to ascend a scaffold and lay his head on a block,† if his duty should demand it, but he has not courage to defy God. Let not, however, any among you flatter yourselves that there is really any danger to him in following the dictates of his conscience. His throne is built on the hearts of his people—and those hearts only love, honour, and venerate him the more for witnessing his faithfulness to his high engagements.

"In one word, then, see whether you can offer us any real and adequate security for our Church if the boon you ask be granted, or try to find the securities which we, on our parts, may devise, such as you can conscientiously accede to. If the result be that religious duty on both sides makes entire accordance impossible, let us come as near together as we can, and respect each other the more for not sacrificing spiritual to worldly interests."

"Such I venture to think, is the language which the friends of the Roman Catholics of Ireland (and what Englishman does not wish to be their friend?) ought steadily and unceasingly to hold toward them.

If it please not the zealots on either side, it is not, on that account, the less likely to be wise and salutary.

Soon after this publication—probably in consequence of it—a noble friend of mine, then a distinguished Member of the House of Commons, who had always voted for what was called Emancipation, though ardently attached to our Church, said to me, "Why is it that you, who profess to think a scheme of securities practicable, do not attempt to devise one? It would be a great service to the country if this should be accomplished."

It was upon his suggestion that I gave my mind to a deliberate consideration of the matter, with this object in view. The result of my consideration is given in the following letters, which will have the value of exhibiting Lord Eldon himself, then no longer in office, as desirous of seeing what I might submit to him, and expressing his deliberate judgment upon it.

(No. I.)

(Private and Confidential.)

Lord ELDON to Rev. Dr. PHILLPOTTS.

Sunday, Sept. 28, 1828.

DEAR SIR,

I THANK you for your letter* received here last night.

Mr. Pennington having informed me that he will call here (in his way to Weymouth to visit some patient) this morning to see Lady Eldon, I hope my absence from Church will be excusable, especially if I employ my time in answering a letter which so deeply concerns the religion of my country as your letter concerns it.

You only do me justice in believing that no considerations of mere punctilio would induce me to withhold my advice. I certainly, too, should not withhold it, whatever the effect might be as to my character, if I could form a confident opinion that I could offer advice which might be usefully given, and which others would act upon as useful. I am willing to carry it further, and to add that, if I could offer such advice, I should be disposed to give it, whether others would act upon it or not. No reflection, however, that I have bestowed upon this important subject has enabled me—and much reflection I have bestowed upon it—to form an opinion that I can give any advice which can be useful, or which can be acted upon, if any concessions are to be made now.

I agree entirely with you as to what you state respecting the election at Clare. I had hoped that it might have been in the judgment of the King's Ministers too "a most propitious and well-timed incident," and that no statesman could have failed to see the consequences which must result from the power of returning eighty or one hundred members by Irish Priests and dema-

* See Evidence before Commons, p. 218.

† King George's III.'s speech to Lord Grenville in 1807. But this has been since stated to have not been spoken.

* I have no copy of the letter here referred to, nor of that to which No. 2 is an answer.—H. E.

gogues to the House of Commons. I confess I thought that the Clare election not only gave the government an opportunity to act instantly and with decision, but made it imperatively their duty so to act. I never hesitated to declare my opinion to all who conversed with me upon the subject, that Parliament should not have been allowed to separate till the advantages which that election gave the Government had been duly improved. Of the sentiments of Government respecting that election, I heard only that one member of it, being asked what Government meant to do with regard to it, answered "Nothing;" and His Majesty was advised, I suppose, not to mention Ireland in his speech upon the prorogation—according to my memory Ireland not being mentioned in it.

Your observations respecting Mr. — are perfectly just with respect to his own conduct, according to my understanding as to what it has been, and with respect to those who have been perfectly passive with regard to that conduct.

I do not know whether there is any law capable of being administered in Ireland. If there is, and the accounts we read of the proceedings of the Roman Catholic Association are true, and capable of proof in evidence, that Association and many of its members have been liable to effectual prosecution, without any new Act of Parliament, on account of what has passed in that Association *in almost every day* in which it has met. And unless the Irish will not administer the law, which I apprehend they have, there is no occasion for the interposition of the House of Commons. If there was, for the reasons you mention, I should despair. A Government, which would act with the cowardice which was manifested in the business of last Session with respect to the Corporation and Test Act, would hardly face the opposition that, in the outset at least, would be found in the House of Commons to proposing a new Act for dissolving the Association. Unfortunately, the Irish Government lawyers will not act in prosecutions, unless they receive from the Home Secretary here instructions so to proceed; and it is not saying a great deal to say, after all that has passed, that instructions of such a nature are not very likely to be given. You may not remember it, but, in the Session before I went out of office, I declared, in my place in the House of Lords, that the abstinence from prosecutions in Ireland could not be accounted for, unless either what was published respecting the proceedings there was not true, or was found to be incapable of proof. I well remember that Mr. Pitt's instructions, when England was threatened in 1793, 1794, and 1795, with revolution, and a Convention or Parliament at York, were not to apply to Parliament till the powers of the common law were found to be ineffectual; and, at last, the application to Parliament was made, I think, not to enable you to prosecute effectually, but to render legal proceedings less dilatory, and to prevent crime, after having first established that there was law enough to punish for it, though not with sufficient speed.

I had not heard of Sir A. Hart's declaration. I forbear to use the word, which, I think, will duly characterize it, even if law, as quoted by Saurin, had not existed.

With respect to the Duke of Wellington's speech in the House of Lords, it is to be regretted, if you correctly understood him, that there should exist so much of misapprehension as to what his Grace said, as does exist. I know it to be very general. I understood him as you do; but very many, I know, did not so understand him, and I have been informed that he discouraged the intention of asking him for an explanation.

But let us suppose that you and I correctly understood him; what follows upon that?

In the first place, supposing the Roman Catholic Association not to exist, what is to be done if you concede? In twenty-seven years you have been again and again in Parliament attempting concession, and to make concession consistent with security! You have not been able, employing for twenty-seven years the whole of the national wisdom, to find out what concessions you can *securely* make with respect to the Protestant, or *satisfactorily* make with respect to the Roman Catholic. I presume that arrangement has not become more easy, when the Irish Roman Catholics say that they *must* be put upon an *equality* at least with the Protestants; that they *must* have a reform in Parliament, and the right of suffrage continued to the freeholder under the influence of the Roman Catholic Priesthood, or still more largely established; and when they tell you that they not only will not be contented with this if they receive it of your gift, but *that they will have it, and can have it, whether you choose to give it them or not*. I cannot imagine to myself what it is you can concede to them with safety to the Established Church, if you are to negotiate about concessions to them, in possession, *in fact*, of the Government of Ireland, and professing to treat *with the Government of the United Kingdom*, on the part of "*the people of Ireland*," as a body, in fact, though not in law, no part of *the people of the United Kingdom*, separated at least from that kingdom "*de facto*," as they allege. If their power can wrest from you now what they ask, will your granting what they now ask disable them, by the exercise of that same power, to wrest from you whatever they may further please to demand? Is there the slightest probability that, the Roman Catholic Association continuing to exist, and its members continuing to outrage law day after day with impunity, that the Association will be pleased graciously to think that they have done anything effectually which they accomplish, leaving anything, which they mean, undone? If the Duke of Wellington said what you and I understand him to have expressed, it would have been well if he would tell us after what fearless and firm legislation he proposes to act fearlessly and firmly. I own I cannot imagine what that legislation is to be; and I am not surely confident whether what shall be accomplished by fearless and firm legislation will leave us, in a Protestant state, what is worthy of firm and fearless conduct to maintain it.

In a word, unless the Government will *begin* with effectually destroying the Roman Catholic Association, dissolving its power by dissolving its existence, and providing by law against the resuscitation of, or attempt to recreate, a body assuming such powers as this Association has

assumed, I cannot conceive what can be usefully or effectually done.

Can you suggest anything to me? Believe me, the Roman Catholic Association in Ireland, talking, as Mr. O'Connell now does, of Parliamentary reform, general suffrage, communicating with persons in foreign countries, &c., do not confine their views to religious matters only. It is curious that, at the latter end of our troublesome times, towards the close of the last century, our Radicals here were forming alliances with the Irish Roman Catholics. They appear to be returning the compliment to our English Radicals. I cannot help thinking that, as you were good enough to suggest in conversation what you have now been kind enough to suggest again in correspondence, that you may be able to give me some useful hints what concessions, and with what securities, may be made, first destroying or not first destroying (and I see no symptoms of the Government's attempting first to destroy the Roman Catholic Association) the Roman Catholic Association, and their law as to the forty-shilling freeholders. If you see what would be safe, "*Candidus imperti.*"

I have some hope that the Irish Protestant Associations may be useful. I must learn that there are a great many more English Associations before I can so think of them. The English have hitherto acted as if they did not care one farthing about religion.

I heartily wish that I could see what I should call a *second best course*, but I am unable so to do, unless Government shall first, by law, inform the people of Ireland that neither the present nor any future Association shall bring the two parts of the United Kingdom again into such a position with respect to each other. This they may do if they please, but then a House of Commons Minister must not flinch from what he approved, or a House of Lords agree to what they disapprove for no better reason than that the House of Commons have agreed to it. I may be laughed at for my opinion; but the Act of last session, and the aid the Bishops gave to it, as to the Test and Corporation Act, is, in that absurd opinion, every day more and more considered as a fatal blow to the Established Church. God forgive those that inflicted that blow! There are those who voted against it, not unlikely to give way to the Catholics. They like them, as friends to monarchy and Episcopacy, better than some of the Dissenters favoured by that Act.

Whatever may or might be the difficulties of my *tendering* my advice—and my relative situation is not quite the same as it was when I was asked advice respecting certain marriages—not to mention that, *perhaps*, in some, if not in a *very considerable* degree, my opinions respecting Roman Catholic matters may have contributed to alter my situation—whatever those difficulties might be, I should get the better of them if I could see it to be probable that it would be useful to the country to get over them; but, judging as well as a man not a member of the Cabinet can judge, I see no probability of those steps being previously adopted by Government, without the previous adoption of which everything which my mind can suggest to me (to say the least of it) could be of no use.

Excuse this hasty scrawl.

Lady Eldon joins in love to Maria, and in kindest regards to all, with

Yours, dear Sir,
Most truly,
ELDON.

No. 2.

Lord ELDON to Rev. Dr. PHILLPOTTS.

October 10, 1828.

DEAR SIR,

I RETURN you the enclosed,* which I have been sorry to find that a Lord Chancellor could furnish for the public's reading. It surprises me extremely—for, though his Lordship was formerly inclined, according to my recollection, to be more favourable to the Roman Catholics in his views of their state and claims than I have been, and latterly seemed to alter his opinion—yet I am not to consider as novel a converted Catholic returning to his former errors, but I thought he had some discretion. Lord Teynham has furnished a pretty strong proof that that reconversion may be. After what I have heard him state about Roman Catholics, his proceedings in Kent are curious! Be that as it may, how a Lord Chancellor could hold such language upon such a subject astonishes me—whatever the written law was.

I am sorry that I happen at present to be where I have not a single law-book; I must, therefore, defer answering your question respecting the Roman Catholic Bishops assuming rank or titles, &c. Mr Saurin's opinion, in the mean time, I may say, appears to me to be the warrant for a strong presumption how the law stands upon that point under statute. I certainly was not aware that there was any statute law in Ireland which either created or removed the disability. What my notions have been, independently of statute law, you may collect from this fact:—The Bishop of Norwich, two or three sessions ago, tendered a petition to the House from a Roman Catholic Bishop in Ireland, which purported to be his petition as Bishop of some See (I forget what) in Ireland. The title of the petition caught my ear when I was sitting upon the Woolsack. With my notions of common law, and of the King's sole power, exercised in the due mode, of nominating Bishops of places in the kingdom, I left the Woolsack, and stated my objections to any such petition being received. The petition was rejected, *nemine contradicente*, and I have a recollection that Lord Landsdowne said a few words explanatory of the objections to receiving it. It does not occur to me to think that the repeal of the disabling

* This refers to a newspaper report of a proceeding in the Court of Chancery in Ireland, in the course of which the Lord Chancellor expressed an intention of giving a female ward (being a Protestant) to the care of a Roman Catholic, saying that he should not be swayed by consideration of the religion of the party.—H. E.

statute would alter what was the law before that statute passed, unless the repealing statute was very specially expressed with that view. I shall further consider this, and write again when I get to town; but I am (so I may be) at present under a mistake, if any Roman Catholic Bishop could in England assume with impunity the title of Bishop of London (unless the present—late Bishop of Chester—be a Roman Catholic), or any Roman Catholic Bishop in Ireland could so assume the title of Bishop (Archbishop) of Armagh, unless the present Bishop (Archbishop) be a Roman Catholic. You must excuse my impertinence in supposing that any prelates of our Church can be Roman Catholics; but my spleen, on account of Episcopal conduct in the last session, misleads me so far in a *confidential* letter. The question, however, is not whether such assumption of title is not merely impudent and nugatory, but whether it is subject to legal animadversion, which I have always supposed it, without statute, to be: it has, however, become necessary to consider the point more fully than I, who have always taken it for granted, can say that I have deliberately considered it.

The late events in Ireland may lead to consequences which may possibly render our considerations what is "second best," not so necessary as they were, before those events, thought to be. But yet it is quite obvious that such may not be the case, and therefore I repeat, *Candidus imperti*. It is now thirty years ago since Lord Clare, in a very able speech in one House, and Mr. Foster, then Speaker, in another, stated that Ireland would never be at peace till it was once more conquered.

Yours faithfully,

ELDON.

Thursday night.

Cobbett, I hear, attends the Kentish County Meeting, to persuade the men of Kent to adopt what he calls the Romish Church Establishment, with or without its doctrines, to divide the Church revenues between the clergy, poor, &c.

I also hear that his Majesty expresses his determination not to give way if the Houses of Parliament do, but to dissolve, and appeal to his people; but, query, supposing that purpose abided by, it comes too late? There are those who thought, after the two Houses differed, this might have been of use. Would it be so now, when it is understood that the Irish Roman Catholics have seen their mistake in electing Roman Catholics, and mean now, as universally as possible, to return members by force of such proceedings as took place at Clare, but members of any or no religion (not Roman Catholics, who can't sit in Parliament), but who undertake to vote for Catholic Emancipation? This won't do unless the right to elect is first altered. Previous to the last election there was a great deal of prating how unfavourable it would be in England to Roman Catholics. In fact it was not so.

Bishop Copleston, I think, told us that he thought that by the next session a plan might be devised to satisfy Protestants and Roman Catholics—what was his "second best"?

No. 3.

REV. DR. PHILLPOTTS TO LORD ELDON.

Stanhope, October 9th, 1828.

MY LORD,—It is with unfeigned and deep consciousness of my own inability to say anything worthy of the great subject, that I sit down to answer the question which your Lordship has done me the honor of proposing to me—"What concessions, and with what securities," do I think may be safely made to the Roman Catholics?

Permit me, in the outset, to say, that the longer I have considered the subject, and the more closely I have been able to watch the progress of events, the more firmly am I convinced of two things, apparently at variance with each other;—first, that the true principles of the British Constitution require that concessions should *not* be made; and, secondly, that the wretched degeneracy of our present race of parliamentary orators, their ignorance of those principles, and, still more, their heedlessness of them—the want of energy in most of our public men, the want of authority* in Government on this question (on which, sixteen years ago, Government, most—what shall I say?—most unhappily—abdicated all authority)—above all, the lamentable absence of almost everything that was wont to characterize an English House of Commons, combine to make it certain that, ere it is very long, concessions *will* be made.

If I am right in this view of the state of things, I have little difficulty in saying that this is the time when concessions can be made with infinitely less hazard, because I think they can be combined with far more effectual securities, than if they be delayed beyond the duration of the *present Parliament*.

I know not whether I shall be considered by your Lordship as ascribing too much importance to the control exercised by the priests and demagogues of Ireland over the representation of that country, when I say, that if they are suffered to retain their power to the time of the next general election, I do not think that the present Constitution can last ten years longer. Eighty nominees of such a faction sent into a House of Commons which is already filled with the dupes of modern liberalism, and which is utterly devoid of a single head capable of guiding or controlling them, would very soon be able to overturn all the institutions which, under Providence, have given strength, dignity, and virtue to England. The only hope would be, that the rashness and self-conceit of such a party would precipitate matters too violently, and cause a reaction even in the ranks of vapouring declaimers, who now testify, on every occasion, their readiness to sacrifice every ancient principle to their own presumptuous dreams of improvement. But is this a hope to be relied on? is it one which could long endure?

Redemption from the hazards of such a state of things would appear to me to be cheaply purchased at almost any cost. I admit that it ought

* This refers to making this an *open question* in constructing the Cabinet.

to be obtained without any sacrifice whatever—that a legislature intrusted with the guardianship of such high interests as those which are at the disposal of the British Parliament, ought to feel it a prime and paramount duty to put down at once so foul and fraudulent an usurpation of the elective franchise as that which prevails in Ireland. It ought to do so from mere regard to justice and the rights of the genuine freeholder, even if there were not such tremendous dangers in the existing system. But is there a hope that the House of Commons will do this? Is it not certain—was it not *proclaimed* in 1825?—that that House will refuse to entertain the question, if it be not combined with some plan of concession?

Looking at the matter thus, I am compelled to regard concession as almost undeniably necessary; and my views are directed to the measures which may seem likely to render concession as safe as the nature and circumstances of the times will admit.

And here, as a preliminary, I should, with your Lordship, lay it down as indispensable, that the outraged law of the land, the dignity of Government (would to God that all the members of the Government, particularly the Irish Government, felt what that dignity demands!), and the honour of Great Britain, should first be vindicated, before a single step be taken in the way of concession. The Irish Association must first be put down by the existing law, as far as that law will go, and by the enactment of new laws, similar perhaps to those which saved England nine years ago from the danger of a servile war. Why is more forbearance to be shown to the Irish than to English traitors?

In my poor judgment Parliament should be immediately summoned to meet for this purpose *before Christmas*, and should be opened by a speech from the throne, especially calling for the advice and assistance of the two Houses in putting an end to the present disgraceful and perilous state of turbulence in Ireland.

But then I will be presumptuous enough to say further, that I should wish that, after this object shall have been accomplished, a message from the King be sent to both Houses, stating that, if the wisdom of Parliament shall devise any means by which the relief of his Majesty's Roman Catholic subjects from their remaining disabilities can be made consistent with the full and complete security of that Protestant Church which must always be the first object of solicitude to a Protestant King and a Protestant* kingdom, his Majesty will rejoice at such a result; but that his Majesty cannot doubt that, in all their deliberations on this momentous subject, Parliament will bear deeply in mind what they owe both to the feelings and the principles of the nation at large, and also, in a peculiar manner, to those solemn obligations under which his Majesty came at his coronation, and from which no considerations of temporal expediency can excuse him.

(I venture to send my crude words as they first present themselves. They will show my meaning, though I am well aware that they are

* Be it ever remembered, that this is the description given of *this kingdom* by the charter of our liberties, the *Bill of Rights*.

not such as the dignity and solemnity of the occasion would require. But less in *effect* than what I have written would not perhaps, and ought not, I think, to satisfy either King or people.)

And now for the plan of securities to be proposed.

I will set out with observing, that it would appear to me utterly intolerable, in framing these securities, to have recourse to any Roman Catholics, least of all to the Pope. I should hope that Parliament would adopt, in their fullest sense, the words of the Duke of Wellington, —We must legislate for ourselves, and we must legislate firmly and fearlessly."

I will next say, that it would appear to me of main importance, in framing such securities, to *avoid all mention of Roman Catholics*, and to make laws in general terms, which, while they operate on all, shall yet be so devised as to provide against the particular dangers to be apprehended from that sect:

- I. Let there be an Act for limiting the right of voting for Members of Parliament for counties in *Ireland** to persons having estates in fee or in tail, or on lease for lives renewable for ever, if the value of the land is 40s. per annum, and less than 20l. per annum,† leaving the right, as at present, to all persons having *any* freehold estate in land above that value; the value of the land to be in all cases estimated according to the rent‡ which it would obtain if let.

The obvious benefit of this first security would be to reclaim the power of choosing Members of

* *Ireland* is mentioned alone: nor is there any fair ground of complaint, if a different law prevail in Ireland from that which takes place here. Already (as I need not remark) the laws regulating the elective franchise in the two countries are different. If, indeed, this Act should include England, there would be no injustice; for the small freeholds of a less interest than an estate in fee or in tail, or for lives renewable for ever, are usually created for the mere purpose of overpowering the real freeholders. But it might be well to innovate as little as possible.

† It has been sometimes said, that the 20l. freeholders are as much under the influence of the priests, as the 40s. freeholders. This is, however, not the case. In the late election for Clare, the great majority of the 20l. and higher freeholders was against O'Connell. By referring to the return made to an order of the House of Commons, it appears that in Clare the 40s. freeholders, including all under 20l., registered between 1795 and 1823, were 24,000—the 20l. and higher freeholders were 1800 only. Of those 24,000 perhaps there would be 8000 or 10,000 nominal freeholders having votes at the same time (for the register of *these small* freeholds is repeated every eight years). Therefore, the same freeholders would, in those nineteen years, be numbered more than once. Of these there must be many (especially in the intermediate sums between 40s. and 20l. per annum) having estates in fee, who would not be disqualified by the proposed enactment.

‡ This criterion, *rent*, is suggested to obviate the present fraudulent practice of a man's satisfying his conscience in swearing to the value of his freehold at a certain sum per annum, if he would not relinquish it for that sum, when the consequence of his relinquishing it might be to turn him out of house and home, which, it may be well supposed, he would not incur for a light consideration, certainly not for the sum which at present qualifies him to vote.

Parliament for Irish counties from pauperism to property, and thereby to secure the elections, for a long time, almost entirely to Protestants. In the instances in which Roman Catholics would be chosen, they would at least be men of property, and probably men of education; in either case not likely to be the slaves of the priesthood.

It is said by all persons acquainted with Ireland as it is now, and as it was thirty years ago (before the establishment of Maynooth College), that there is *now* one marked change. The priests are of a lower grade in society; they are not, as they formerly were, guests of the Popish gentry; on the contrary, they are kept at a distance, and have little or no influence over them.

A Protestant gentleman of large fortune, resident in the county of Clare, who has been with me lately, says that the Roman Catholic gentry are more annoyed, if possible, than the Protestants, at the present domination of the priesthood and the demagogues.

II. An Act, requiring all members of either House of Parliament, before they sit or vote, to take an oath, or make a solemn declaration, founded either on the writ of summons to Parliament, or on the declaration recently substituted in lieu of the sacramental test, *for the security of the Church of England and Ireland*; the preamble of this Act recognising this Church as a *fundamental and essential part of the Constitution*.

The benefit to be obtained from such a statute might be found greater than at first appears; for it would give to the church the pledge not only of Roman Catholics, but of *all others members of Parliament*, none of whom are at present under any engagement to it. If individuals would disregard, or explain away, such a pledge, it might be at least hoped that the great body of either House of Parliament would feel and respect its binding nature. At any rate it would strengthen the claims of the Church, and could not fail to affect powerfully the opinion of the people against any open attempt to injure it.

This measure would be stoutly opposed. Lord Holland protested against it by anticipation during the debates on the repeal of the Test Act. So did some one in the House of Commons. But if no measure is to be adopted which will be opposed, the Constitution may as well be given up at once. After all, since men of all parties are weary of the Popish question, and eager to get rid of it, any measure, strenuously insisted on as a necessary adjunct to the settlement, might be carried, perhaps, with less of resistance than under other circumstances could be hoped. The proposed *recognition of the Protestant Episcopal Church of England and Ireland as an essential part of the Constitution* was made in the preamble of the *Bill of 1813*, as amended in the Committees of the House of Commons of that year; and it is enacted in the Act of Union that the preservation of the said United Church shall be deemed an essential and fundamental part of the said Union.

III. An Act, *declaring it to be unlawful, and*

prohibiting all persons from calling themselves or others, *in any printed book or paper*, under any qualification, Bishops of any see, Deans of any chapter, or Rectors of any parish, of which there are, according to law, Bishops, Deans, or Rectors of the Established Church of England and Ireland. The penalty for the first offence a fine of _____; for the second, the party to be required to withdraw himself from the realm, and if he return, without licence under the great seal, transportation.

The necessity of some such statute is becoming every day more imperative. The Popish Bishops call themselves, and are called, Bishops of the Irish Sees, without scruple, and often without qualification. If it be urged (as it was urged by Mr. Pitt) that in an *Episcopal Church there must be Bishops*, at least let the Popish Bishops be compelled to imitate the modesty of the Protestant Bishops of the Episcopal Church of Scotland, who abstain not only from all titles of *Lordship*, but even from calling themselves publicly Bishops of *Sees*, though there are no other persons entitled by law to those sees. Within the last two months, this abuse and usurpation in Ireland has extended beyond Bishops, and even beyond Deans. The parish priests are now called by the Association *Catholic Rectors*, and sometimes simply *Rectors*, of such and such parishes. But for this invasion of the rights of the Established Church there is absolutely no semblance of excuse; it is sheer, unmixed, unmitigated hostility; it is an avowal of a determination to usurp the character of the National Church, in defiance, and in derogation, of the lawful rights of the Protestant Episcopal United Church of England and Ireland.

IV. A statute, prohibiting all persons in Holy Orders, or pretended Holy Orders, or pretending to Holy Orders, and all Ministers or Teachers of Dissenting Congregations in Ireland, from in anywise interfering in any contested election of Members of Parliament in Ireland, whether by asking votes, or otherwise: making any candidate ineligible, and consequently all votes given to him thrown away, who shall, by himself or by his agents, use, or knowingly permit, the aid or interference of such persons; saving, however, the right of such persons to vote themselves, and to solicit the votes of persons who are tenants under them of any land or tenement, and are qualified to vote.

This, it will be seen, is here confined to *Ireland*; but if, in order with the better grace to exclude the influence of the Popish Priest, it be thought fit to extend the operation of the proposed measure to England also, it is a restraint which, I think, would not do us any harm; nor would it, I believe, excite any feelings of annoyance or dissatisfaction in the minds of the Protestant clergy of this country. Perhaps even our fair influence would not be lessened by it.

V. A general oath of allegiance and supre-

macy to be taken by all persons in *Ireland*, as a qualification for office, or on any other occasion, when either the common oaths of allegiance and supremacy are required at present, or the oaths prescribed in the Acts of 21 & 22 Geo. III., and 33 Geo. III., to be taken by Roman Catholics (in lieu of the oaths now required by law)—

"I, A. B., do take Almighty God, and his only Son, Jesus Christ, my Redeemer, to witness, that I will be faithful and bear true allegiance to our most gracious Sovereign Lord King George the Fourth, and him will defend to the utmost of my power against all conspiracies and attempts whatsoever that shall be made against his person, crown, and dignity; and I will do my utmost endeavour to disclose and make known to his Majesty, and his heirs, all treasons and traitorous conspiracies which may be formed against him or them; and I do faithfully promise to maintain, support, and defend, to the utmost of my power, the succession of the Crown in the heirs of the body of the Princess Sophia, Electress and Duchess Dowager of Hanover, being Protestants, against any person or persons whatsoever: and I do declare that I do not believe that the Pope of Rome, or any other foreign prince, prelate, state or potentate, hath, or ought to have, any temporal or civil jurisdiction, directly or indirectly, within this realm: (I do further declare that our Sovereign Lord King George is over all persons, and in all causes, ecclesiastical and civil, to the laws of this kingdom in anywise appertaining within these his dominions, supreme:) and I do swear that I will defend, to the uttermost of my power, the settlement and arrangement of property in this country as established by the laws now in being. I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present Church Establishment; and I do solemnly swear that I will not exercise any privilege to which I am, or may become, entitled, to disturb or weaken the Protestant *Church of England and Ireland, as by law established, or the Protestant Government* in this kingdom.

"So help me God."

The whole of this form of oath is taken from those already prescribed to be taken by the Irish Roman Catholics by 21 & 22 Geo. III. c. —, and 33 Geo. III. c. 21 (Irish), except the words describing the succession of the Crown and the short clause within brackets, and except the alteration of the last clause into words more distinctly expressing the intention of the legislature, and less obnoxious to unfair interpretation than those in the existing statute. The clause, so altered, resembles one proposed by Mr. Canning in 1813, and making part of the Bill as amended in the Committee of the *House of Commons* of that year.

In *England* it would not seem necessary to make any change in the oath of allegiance, or oath of abjuration. The oath of supremacy (to be taken by all persons whenever the present oath of supremacy is required) might be as fol-

lows, taken from the 37th Article of the Church:

"I, A. B., do declare that the King's Majesty hath the chief power in this realm, unto whom the chief government of all estates of this realm, whether they be ecclesiastical or civil, in all causes doth appertain, and is not, nor ought to be, subject to any foreign jurisdiction.

"So help me God."

Proviso, that the present oaths be continued to be taken by all persons holding any office, benefice, place, or dignity in the united Church of England and Ireland and the Church of Scotland, by all judges in every Ecclesiastical Court, by persons holding office in all Universities, or taking degrees in English or Scotch Universities, or Colleges, or Schools of Royal or state foundation.

Proviso, that all Archbishops, Bishops, Priests, and Deacons of the united Church of England and Ireland, all Chancellors, or Vicars-General of Dioceses, all Judges in any Ecclesiastical Court or Court of appeal, shall take the oaths now required by law.

The stiffer Papists may object to the concluding words, because they hold that all baptized persons are subject, in spirituals at least, to the jurisdiction of the Church and of the Pope. But let those that will, object to such a form; their objection would only prove more strongly the necessity of requiring it.

The reason for proposing different forms of oaths for the two countries, is the different state of the law at present in the two. The oath now taken by the Irish Roman Catholics contains a clause so much more distinctly engaging them to abstain from injuring the Protestant Church than any in the oath of the English Roman Catholics, that it must not be surrendered. And it is not likely that it would be objected to by the Irish Protestants, if enjoined to be taken generally by all persons in Ireland. But if proposed as the oath to be taken by all persons in England, it would, without doubt, be strongly opposed; nor would it be desirable to disturb the adjustment made by the statute which repealed the Test and Corporation Acts in the last session.

VI. An Act prohibiting any person from advising the King in the disposal of ecclesiastical benefices who is not a member of the Church of England and Ireland; and enacting, that if any ecclesiastical benefices be in the patronage of any office under his Majesty, the person appointed to such office shall, at the time of taking the other oaths required to be taken by him on entering thereupon, make and subscribe the following declaration:—

"I, A. B., do solemnly declare that I am a member of the United Church of England and Ireland.

"So help me God."

In default whereof the exercise and enjoyment of the said patronage shall belong (during the continuance in office of such person) to any Privy Councillor whom his Majesty shall

appoint, such Privy Councillor first making and subscribing the said declaration.

It may seem to be necessary, consistently with this measure, to retain the existing restraints on Roman Catholics who are possessed of advowsons. And, in my opinion, there are, obviously, some reasons of justice and policy against permitting any persons who are not members of the Established Church to present to any of the benefices of that Church. But as other Dissenters are permitted to enjoy this patronage, it would, perhaps, be hardly necessary or expedient to retain this one badge of suspicion against Papists *alone*. If retained, there might be a permission to the Catholics to sell advowsons, if entailed, purchasing lands with the money received for the same, and making the lands, so purchased, liable to the same limitations as the entailed advowsons.

VII. An Act, charging all assessments for the repair of churches, and other church-rates, in *Ireland*, on the landlord, and not on the occupier, of lands and tenements—requiring the occupier to pay them to the collectors, but authorizing and empowering him to deduct the sums so paid from the rent due to the landlord. Perhaps an appeal to the quarter sessions might be given on the expediency or amount of any particular rate.

I apprehend that, at present, in every case of fair letting of lands or houses, the landlord does, in fact, pay the rates, inasmuch as their amount is calculated as an outgoing when the bargain is made. But in the existing state of *Ireland*, where very little calculation often takes place previously to the tenant taking his small tencement, and excessive rents are blindly submitted to, these rates do really fall upon the tenant, and from their very nature and object, being imposed for the support of a Church to which he is adverse, they must be peculiarly galling. This is, perhaps the most specious of all the alleged grievances. But the necessity of requiring these rates to be paid by *all*, whether members of the Established Church or not, rests on a principle which must, on no account, be relinquished, how vehemently soever it be assailed.

VIII. A continuance, at least for some years, of the prohibition against Roman Catholics in *Ireland* (not possessing certain qualifications in land or money) having arms in their possession.

It would be obviously prudent to effect this by silently retaining the present disability. If it be opposed, there is unanswerable ground for insisting upon it, in the turbulent and perilous state of that country.

If this, or any other restraint, be retained (as some others must be—particularly in respect to advowsons, and also in respect to voting at parish vestries, the founding of monastic establishments, the prohibition of processions, &c.) it will be much better to follow the precedent of the English Act of 1791, which distinctly enumerates the laws to be repealed, than the Irish Act of 1793, which commences with a general appeal of all

disabilities, and then proceeds to special exceptions.

IX. A proviso, similar to that in 1813, for Act of Uniformity, &c.

X. Processions, &c.

I have thus ventured to detail my opinions as to the measures which ought to accompany concession, if concession be made. For doing this at so great length I offer no apologies, for your lordship has been pleased to require it of me. It would be the highest reward I could receive, if your Lordship should be hereby induced to give your own mind to a consideration of this important subject. From you would proceed a scheme of real securities, if any are attainable.

I am, my Lord, with the highest respect,
Your Lordship's most faithful and
obliged servant,

H. PHILLPOTTS.

No. 4.

LORD ELDON to REV. DR. PHILLPOTTS.

October 27, 1828.

DEAR SIR,

I OUGHT long ago to have acknowledged the receipt of your letter of the 9th of October, and I should be treating that letter without that respect which is most justly due to it, if I ventured, without much and repeated consideration of its contents—which, as yet, I have not been able to bestow upon them—to offer to your attention many of those observations with which I may hereafter trouble you.

That, under present circumstances, any concessions ought to be made, I cannot agree; that some will be made, I cannot doubt. And yet I do not, at present, believe that I shall ever be able to question effectually whether it is not a matter of duty, not to be sacrificed to expediency, to try the effect of that opposition in the first instance which will propose that no concession ought at present to be made, and that no such dangerous measure should be allowed to pass as that which will leave the Catholics impressed with a perfect conviction that we yield to menace what we would not grant to entreaty; doubting, too, as I doubt, whether concession should be made to either.

I agree with you that the Catholics ought not to retain their power of election till the next general election. My opinion is, that Parliament ought not to have separated till O'Connell's election had been decided, and the right of suffrage in *Ireland* had been regulated: this is very well known, I believe, to have been my opinion, but I have very little reason to believe that its being my opinion would recommend it to early, if to any, consideration by those who alone could have given it an useful consideration.

I fear that those who are now to advise will not give the King the advice that will lead to his sending to Parliament such a message as you propose. The Cabinet is not so formed, I think, as that they should *agree* to advise a message in all

its contents, in some of its indispensable contents, such as your letter proposes.

The Act of Parliament No. 1, I think right; but, absolutely necessary as it is, I have reason to believe that it will be no easy matter to carry the measure, and perhaps impossible if it should be proposed to include England.

The Act of Parliament No. 2 would certainly be opposed by Lord Holland, &c. That is perhaps of more consequence than you deem it to be; for nobody can doubt, after what he *saw* pass in the House of Lords, that he greatly influenced the minister last session; and all that has occurred in debates in the last twenty-five years convinces me that there will be great opposition to any Bill that recognises the Church as a fundamental and essential part of the Constitution. The Act of last session, which contains that poor, wretchedly miserable declaration, which this proposed Bill is to contain, could never have passed if Parliament would declare the Church to be *such* a part of the Constitution; and it seems to me to be very difficult for the Episcopal Bench, misled last year, as Story will have it, by the Bishops — and —, to agree to such an Act, when, because they did not like the sacramental test, they thought it proper that offices in the state and corporations should be filled by persons who gave *no* test that *they were members of that Church*, which was before *last year* a fundamental part of the Constitution. If it be no longer such, the Bishops are answerable for that. The declaration required by the Act of last year is almost worthless; the fact that the Bishops would have nothing better, is the only thing that can excuse the Lord who proposed to alter it, as it came from the Commons, to such as it is—next to worthless as it is. All the previous statutes considered the Church as a fundamental part of the Constitution; it was *therefore* that *they* did not measure the fitness of men for office by *declarations* merely, but by *their religious habits*. The present Episcopal Bench thought their declarations a preferable test—preferable to their *being* members of the Church; nay, they could not reconcile it to their enlightened consciences that they should even *declare* that they were members of that Church; and —, unless my memory is inaccurate, stated principles about liberty new to an old member of the Church of England, whilst ——— talked unintelligibly. I did not, till I received your letter, know that the latter espoused Wilmot Horton's plan—which Wetherell called playing at Dumby; but after what I observed through the session it did not surprise. Dr. Johnson used to say that, in his time, among other bigots, there were bigots in laxity. Are there none now?

As to your third Act of Parliament, I think there ought to be an Act prohibiting the assumption of titles, &c.

Your fourth proposed Act, I think would not pass.

To your fifth, I think there are some weighty objections.

As also to your sixth.

Upon these I forbear at present to say more than that you shall hear from me again, and this intimation I apply to your seventh and eighth, and to your continuances also.

Indeed it was not my intention in this to have done more than to acknowledge and thank you very much for your letter, and the great attention you have given to this important subject. I have been imperceptibly and unintentionally led to drop from my pen much that I did not mean, at present at least, to write, and which I shall reconsider before I write all I mean to write.

There is one question which I think neither of us have much attended to, and that is, What reason can I have to believe that Government will receive any suggestions from me. The only thing that the D. ever said to me, that I can remember, as having a tendency to account for his having in no degree communicated with me when he formed his administration, was some few words that he dropped, importing that he knew my opinions upon some points were very strong, and such as could not be altered. I never could imagine what this alluded to but my opinions on the Catholic Claims and the Test and Corporation Acts. I do not see how any advice of mine, if I could usefully give advice, is to be introduced to his attention, save in debate, properly with reference to what is due to him and to myself.

All which I have hastily written, and that is all that is contained in these sheets, is of course confidential.

With Lady E.'s kind regards to you and Maria, and mine, I remain

Yours sincerely,
ELDON.

No. 5.

LORD ELDON TO DR. PHILLPOTTS.

Nov. 22, 1828.

DEAR SIR,—I observe by the papers—and some paragraphs in what I believe to be a ministerial paper give a semblance of truth to what he says—that Mr. O'Connell has assured the Roman Catholic Association that no less than three applications have been made by the Government of Great Britain, through the Hanoverian minister, to the Pope, to learn whether his Holiness will enter into a concordat with our Government; and that the answer returned is, that he will not entertain the subject till Catholic Emancipation shall have been first granted by Government; that this has been received by the Association in Ireland with great triumph; and that they will not accept emancipation, giving any securities. May we not postpone for a while the consideration of securities? What say you to the circumstance, if it be a fact that Government have taken this step?

We hope Maria and the family are well.
I go to town next week.

Yours faithfully,
ELDON.

Such was my correspondence with Lord Eldon in 1828. I could not publish it when the publication would have vindicated me from all the injurious reports which were circulated against me in 1829, because the letters were "confidential." That Lord Eldon joined in giving currency to those reports I never heard, nor do I conceive it possible—knowing as he did the nature of the communications which, *at his own request*, had passed between us. Still, for a year or two, no intercourse did in fact take place. I was in the country, and he did not write to me. When I became a Bishop, and therefore resided in London, in 1831, I have no recollection of actual estrangement. Certainly, we were soon in confidential intercourse: one very special occasion, in the beginning of 1833, is fixed in my memory. From that time to the end of his life I was in the habit of enjoying not only his friendship, but his confidence. I hardly ever parted from him without his thanking me for my visit, and entreating me to repeat it. The last letter which I have any trace of having received from him, I have within these few days casually found. It was written in answer to some letter from me—the subject of which I forget—without a date, but the cover has the Post-office stamp, July 20, 1837—a few months before his death. It was written manifestly with some difficulty, and in a character hardly legible in several parts of it. I transcribe it, with all its errors of language, as showing the kindly feeling which he continued to entertain towards me.

"MY GOOD LORD BISHOP,

"When I have the pleasure of seeing you I will put into your hands 10*l.* for the purpose mentioned in your letter, and we can converse upon the subject fully.

"I greatly fear that the Church will suffer by the plans of the Commissioners, as I think it will also by the operations of the subscribers for building churches before some attention had been bestowed upon [what] is further to be done as to the present ministers of the churches already built, and the future ministers of those to be built.

"Associations are forming for the destruction of Church-rates and every other species of payments by persons out of the Church to its ministers—to [*sic*] tithes to the clergy among other payments. This does not surprise me, when I recollect the extent to which our Protestant Church has been put under the care of Roman Catholics in both Houses.

"The Conservative meetings in different parts of the kingdom are laughed at when those who read their proceedings recollect how many of the speakers at such meetings, and how many of those spoken of, had, as Conservators of the Constitution, had [*sic*] joined in destroying its Protestant character in the Constitution, and that they seem not [*sic*] to have made no opposition to shameful proceedings—utterly ruinous proceedings, as to the English Corporation Bill.

"May that great Being, who can command the raging of the ocean to cease and be still, command the madness of the people also to cease and be still. No human power can save us.

"Yours, my good Lord, &c.

"ELDON."

"The disgust excited among them by this exceedingly sudden conversion (his strongest work against Emancipation being published the very year before he assented to the measure) is amusingly illustrated by a letter to Lord Eldon, which the Bishop has caused to be published in the *Life of that nobleman*. (*Twiss's Life of Lord Eldon*, vol. iii. p. 295.) Lord Eldon appears to have shown his disgust at the Bishop's tergiversation by a marked coldness, and an assumption of superior rectitude, which was continued for some years. And the Bishop rebukes him for his self-righteousness, and shows him the danger of relying on his own works, in a strain really quite evangelical. Many excellent persons have been much edified by this letter."

There is something in this statement so shocking, that I know not how to deal with it. To dare to intrude into the room of a dying man, and seoff at what there passed between him and his spiritual counsellor—to have the confidence to affirm that I "caused to be published" a letter written under a seal of secrecy, which no Christian minister could permit himself knowingly to violate—carries with it its own reprobation. No man who knows me—no decent person who knows me not—can need any assurance that I caused not the publication of the letter. I did not even communicate it to my own wife, the near relative of Lord Eldon; nor did I know that it was still in existence, till I heard that it was exhibited to the gaze of the world by his biographer.

I have, I trust, already said enough to rid myself of the opprobrium of having bartered my principles for a Bishopric. Yet there remain two testimonies borne to me by the Duke of Wellington and Sir Henry Hardinge—which, if I did not cite them with the thankfulness which they demand, I should be unworthy to have received.

In the "*Mirror of Parliament*" (House of Commons), November 22, 1830, will be found what follows:—

"*Sir Henry Hardinge*.—From what I know of the circumstances of this case, I deem myself bound in justice to detain the House with a few observations. For nine or ten years I represented a city in the cathedral of which Dr. Phillpotts held a Church dignity. Having known him so long and so well, it is my pleasure as well as my duty to vindicate him from certain false surmises which have gone abroad respecting him. I have inquired of the Duke of Wellington, and am authorized by that noble person to say that during the time of the discussion on the Catholic Question he and Dr. Phillpotts were frequently in communication together on that subject, but that Dr. Phillpotts did, from the beginning to the end, oppose the passing of that measure, on the ground that he feared sufficient securities were not provided in the Noble Duke's bill; to which bill he was, down to the last moment, not a friend, but an opponent. It had been the intention of Lord Liverpool to promote Dr. Phillpotts to the Episcopal Bench—a circumstance which rests on the authority of the Archbishop of Canterbury, and which could not but have much weight with the Noble Duke. The House should also be perhaps informed that the

And here I should conclude what I have to say of Lord Eldon, had I not been informed that the Reviewer has inserted the following note:—

Duke of Wellington, before he proceeded to act according to Lord Liverpool's intention, made the usual communications to the Archbishop of Canterbury and the Bishop of London, and that the Noble Duke received the assent of those Right Reverend Prelates to the propriety of the appointment of Dr. Phillpotts to the See of Exeter. The Right Reverend Prelates did indeed say that the appointment might be unpopular in the Church; but as the Noble Duke knew that the grounds on which Dr. Phillpotts was unpopular were altogether mistaken and erroneous, the Noble Duke saw that this should be no objection to the appointment."

Let me here state that his Grace had never given to me the slightest intimation of his intention to recommend me to a Bishopric—and that the facts thus stated by Sir Henry Hardinge were before unknown to me.

I next cite, without comment, from the "Mirror of Parliament," March 22, 1832, pp. 1346, 1350.

"*The Bishop of Exeter.*—I shall avail myself of the indulgence of the House in order to enter into an explanation to disprove the charge of inconsistency which has been brought against me. I am really grateful to the Noble Earl (Radnor) for having made that charge, because he enables me to explain a part of my conduct, which, as it at present stands before the world, may not unnaturally be liable to misconstruction. I speak in the hearing of a person who can contradict me; and I earnestly entreat the Noble Duke opposite to contradict me if I utter a single syllable beyond the strictest line of sincerity.

"The Noble Earl has alluded to some notions which he supposes me to have entertained, both before and at the time of the passing of the Bill of Relief to the Roman Catholics. I conclude from his observations that the Noble Earl supposes that I had pledged myself to the world as a decided opponent of Roman Catholic Emancipation as it was called; and that, nevertheless, I assented to that measure when brought forward by the Noble Duke. If this be the supposition of the Noble Earl it is perfectly unfounded in both respects; I always maintained that it was necessary to obtain strong securities before emancipation should be granted. When the Noble Duke, then at the head of his Majesty's Government, had determined to bring forward his Bill of Relief, he did me the honour to communicate with me, because he knew I had stated that the measure ought not to be granted unless accompanied with great securities, and that I thought those securities might be found. Upon that occasion I told the Noble Duke distinctly what securities ought, in my opinion, to be demanded before the boon was granted. The Noble Duke took my suggestions into consideration, and subsequently told me what was the nature of the measure he was about to propose. I then distinctly told the Noble Duke I disapproved of his plan, and that it was impossible I could ever approve of it. I most distinctly and decidedly, from first to last, in all the communications which I had with the Noble Duke, declared that, in my opinion, the securities which he proposed to take were extremely inadequate; and up to the last moment that the Bill was before this House I maintained the same opinion. Now I entreat the Noble Duke to contradict me if I have stated anything incorrectly.

"*The Duke of Wellington.*—I should not have thought it necessary to address myself to the House upon this occasion, having very recently stated my

opinion upon the question under consideration, if I did not consider it to be my duty to say a few words upon what fell from the Right Reverend Prelate in respect to the charge which has been made against him by the Noble Earl. I must do that Right Reverend Prelate the justice to say that every word which he has stated is perfectly true and correct. I have often been astonished at the injustice which has been done the Right Reverend Prelate in respect to his conduct upon the occasion to which the Noble Earl has alluded, and at the length of time which this injustice lasted. The circumstances connected with the case could not be known to any one but myself and the Right Reverend Prelate. He could not have repeated to his own disadvantage what passed between us, and I must say that I have never said one word upon the subject to any man."

Need I say how disagreeable it is to me to dwell so much at length on what concerns myself?

I now turn with great reluctance to another matter—on which I hoped that I had already said enough to justify my own conduct, and therefore had resolved to say no more. But the following passage in a periodical so widely circulated as the *Edinburgh Review*, leaves me no option:—

"It was on similar provocation that Lord Seymour is reported, in the *Western Times* of July 25, 1847, to have addressed his constituents as follows:—'It is a calm, deliberate, collected statement, and I proceed to show you that that calm, deliberate, and emphatic statement is a *deliberate falsehood*. (*Cheers*) Now, it is painful to me, as it must be to every one, to say that a statement so solemnly made is *directly false*; not only that it is an error in judgment or a mistake, but that it is a *deliberate and direct contradiction of the truth*. Let me tell you, it requires a lawyer to deal with *this person*. (*Cheers and laughter.*) Fortunately a lawyer wrote to him; and guardedly and cautiously as it was written, you see how totally it has been perverted and departed from.' The famous case of the Bishop of Exeter *versus* Latimer had its origin in the transaction with the Duke of Somerset here alluded to, and in the report of Lord Seymour's speech in a provincial newspaper and the editor's comments. It was an action of libel for calling the Bishop a notorious brawler and a careless perverter of facts. The editor 'justified,' and the case was tried by a special jury, most of them of opposite politics to the defendant, when, after hearing the Bishop swear to his own version of the affair, they returned a verdict for the defendant."

The history of the transaction on which this speech was founded, is probably in the recollection of many; for it was published by me so recently as in the spring of 1849, in the form of "A letter to the present Archbishop of Canterbury, containing all the Correspondence on the case of the *Rev. Mr. Shore*"—and that correspondence was copied into most of the public journals in the beginning of the month of April of that year. But what was then published was simply intended by me to explain the case as respected Mr. Shore: I endeavoured to spare all

other parties, so far as it was possible to spare them. The Edinburgh Review has made it impossible that I should spare Lord Seymour any longer. I proceed, therefore, to state calmly, I hope, and dispassionately, however fearlessly, what his Lordship's conduct has been—and if, in doing this, I am obliged to exhibit his Father, the Duke of Somerset's conduct also in an unfavourable light, I can truly say that I do so with sincere reluctance.

In the summer of the year 1832, his Grace requested me to meet him at Bridgetown, a hamlet of the parish of Berry Pomeroy, recently made part of the borough of Totnes, in which he had much improved the size and quality of his houses, and had erected a building designed to be a church. The Duke was desirous of knowing what must be done in order to his obtaining the consecration of the building.

I informed his Grace that the object might be effected in one of two ways: either by the building being made a chapel-of-ease to the church of Berry Pomeroy, or by its being endowed as the chapel of a district to be taken out of the parish: that in the former case, the duty of providing for the service of the chapel, and the consequent right of nominating the minister, would belong to the vicar: but that in the latter case, the Duke might acquire the right of patronage by making an endowment.

His Grace, having first expressed his fixed resolution to take such a course as should secure to himself the right of nominating the minister, declined coming to an immediate decision respecting the endowment to be made for that purpose; but he shortly afterwards instructed his solicitor, Mr. Maberley, to communicate with my secretary, Mr. Barnes, who was duly authorized on my part.

The following are the main particulars of the correspondence which ensued between those gentlemen:—

EXTRACTS FROM CORRESPONDENCE previous to the Bishop granting his Licence for the Opening of Bridgetown Chapel:—

No. 1.

Mr. Maberley to Mr. Barnes.—August 18, 1832.

"I am directed by the Duke of Somerset to put myself in communication with you on the subject of the Consecration of the Chapel lately built by his Grace at Bridgetown. His Grace has made known to me the very satisfactory interviews that have taken place between the Bishop and him, and his Grace's conviction that the Bishop and yourself are disposed to facilitate his views, so far as may consistently be done.

"The Duke was not aware, I find, that it would be necessary for him, in order to consecration and license, to establish an *endowment to such extent* as seems necessary. The Duke is, as you are aware, the patron of the living, and a *firm friend of the Church Establishment*; nor do I think it at all likely that the chapel would ever go out of his family. Under these circumstances I confess that I *am inclined to recommend* his Grace to keep his new building—at any rate for the present—as a

proprietary chapel. I believe—but in this you can set me right—that all that will be required *in such case* will be for his Grace to request a license of the Bishop for the minister who may officiate, and *that the Incumbent of the Parish give his sanction.*"

No. 2.

Mr. Barnes to Mr. Maberley.—August 27, 1832.

Has consulted the Bishop on the subject.

"The Duke may, perhaps, be under the impression that a larger endowment was required than the Bishop would deem necessary for consecration. The Bishop, considering the liberal intention of his Grace with regard to the ultimate provision for the minister, would only consider it necessary to require to have legally secured on land, or money charged or secured on land, or money in the funds, a stipend of 50*l.* a year.

"The Bishop, on hearing your proposal to license the chapel, at present only as a proprietary chapel, desires me to say that *he has a strong disinclination to a licence of that description.* The Bishop hopes that the Duke will be able to make at once an arrangement satisfactory to himself for endowment and consecration."

No. 3.

Mr. Maberley to Mr. Barnes.—August 31, 1832.

Refers to the Statute 1 and 2 Wm. IV. cap. 38.

"I apprehend that *the sole objects of the Duke are, to have the chapel consecrated, to retain the sole patronage, and to give a competent stipend by payments or OTHERWISE, or both, to the minister for the time being.* I am well assured that in the attainment of these objects his Grace is most anxious to pursue the course which the interests of the Establishment most require, and consequently of which the Bishop should approve."

No. 4.

Mr. Barnes to Mr. Maberley.—September 8, 1832.

Refers to the Statute 1 and 2 Wm. IV. as not applicable to the case unless through the Church Building Commissioners. "The Bishop, however, looks only to the endowment mentioned, and is ready to do everything that may be in his power to carry into effect the purposes of the Duke, as expressed by you."

No. 5.

Mr. Maberley to Mr. Barnes.—September, 14, 1832.

"I begin to apprehend that the *mutual objects of the Duke of Somerset and the Bishop* will not be attainable but through the Church Building Commissioners. It will require some consideration to determine what proposition to lay before them. It may also turn out that the Duke's apprehension of its being necessary to let a twelvemonth go round is well founded; and this would be much waste of time, and the chapel is ready, I believe. It seems to me also, that it might assist the Duke in deter-

mining definitely what he may be inclined to do, relative to the endowment, &c., if an experiment could be first made how the chapel is likely to answer. Under these considerations I would beg to suggest whether it would be better to request of the Bishop, in the first instance, a licence, as if it were a proprietary chapel only, which need not by any means imply thereby that the idea of endowment and consecration is abandoned. The opening of the chapel in this way will, in the course of a few months, probably enable the Duke to judge what may be the best arrangement to propose for the ultimate adjustment."

No. 6.

Mr. Maberley to Mr. Barnes.—September 19, 1832.

"Since my last, circumstances have come to my knowledge which confirm the opinions I then expressed as to the most advisable course to pursue under present circumstances with respect to Bridgetown chapel. I understand that great inconvenience will arise from delay in the opening, particular as the clergyman, the Rev. J. Shore, has left his curacy, and is already settled in Bridgetown. The Duke was much pleased at the satisfaction expressed by the Bishop, and his Grace is thoroughly aware that the Bishop is disposed to do all he can to promote the early opening. I am informed that you must be mistaken in supposing that there are no licensed chapels in the diocese. I am told there is one at Dartmouth, and elsewhere. In the present case we do not look to the chapel remaining permanently thus; *on the contrary, we trust to be able to procure the consecration on regular endowment.*"

No. 7.

Mr. Barnes to Mr. Maberley.—September 19, 1832.

"The Bishop directs me to say that the Duke of Somerset having stated his wish and purpose to endow the chapel, and convey the same for consecration, the Bishop will license the chapel till that purpose can be conveniently carried into effect.

"It is only necessary that the Duke should sign a petition, and *I will draw a form and send to you.*"

Asking for a plan of the chapel, and *to be assured that the Duke is seised in fee.*

No. 8.

Mr. Maberley to Mr. Barnes.—September 22, 1832.

Acknowledges receipt of letter of the 19th.

"I write, however, in consequence of some expressions in your letter, and to prevent all possibility of any future misunderstanding, unlikely as it may be to arise.

"I think that the communication of the Bishop's consent to license is accompanied by words from you that, if unqualified and unexplained, would amount to an implied engagement on the part of the Duke, *at all events, and under any circumstances, and with whatever inconvenience attended,* still peremptorily to endow and convey the chapel for consecration. As the Duke is a man who would be scrupulous, to the letter, in the performance of every iota of what he could be considered either directly or by implication

to have engaged for, it becomes the more necessary for me to take care that his Grace does not lay himself under obligations calculated by any possibility to bring him into a dilemma. It is his Grace's *most serious and determined intention and wish* to do his best, through the medium of the Church Commissioners, or otherwise, to procure the consecration of his chapel and to make for it a permanent regular endowment of proper amount. *With the expression of this intention the Bishop will, I doubt not, knowing his Grace's attachment to the Establishment, feel satisfied and rest content.* But it is possible that *there may be impediments—unlooked-for requisitions—objections made—interference with patronage—or the like,* that may make it *unadvisable in the view of his Grace, or of any reasonable man,* to proceed to the conveyance and consecration, and may rather induce his Grace to wish to wait till some further legislative regulations afford better facilities, or remove difficulties, that may, in the present state of the laws, exist. I must therefore claim for his Grace a discretion in these matters beyond what your words convey. That the Bishop is content that the Duke should have this, I do not doubt, *nor do I think that you meant to imply the contrary;* but if you read again your words, I think you will find that *the qualification is necessary* which I have taken the liberty to make.

"I will send you the plan, &c., as soon as I receive it, and shall be obliged by the form of petition you propose to send me.

"I am, Sir,

"Your very obedient and humble Servant,

"JOSEPH MABERLEY."

Endorsed on this letter, in the Bishop's own hand:—

"I am content to license the building on the declaration in this letter.—H. E."

No. 9.

Mr. Barnes to Mr. Maberley.—September 26, 1832.

Has consulted the Bishop on the letter of the 22nd.

"The Bishop's authority, as stated in my letter of the 19th, was founded correctly, as his Lordship thinks, on the previous communications; but the Bishop, on perusing your letter, authorises me to say, that he is content to license the building *on the declaration therein contained.*"

THE PETITION.

To the Right Reverend Father in God, HENRY, by divine permission Lord Bishop of Exeter.

"THE petition of the most noble Edward Adolphus, Duke of Somerset. WHEREAS I, the said Duke, have lately erected in my manor of Bridgetown, within the parish of Berry Pomeroy, in your Lordship's diocese of Exeter, a building designed for a chapel for religious worship according to the rites and ceremonies of the United Church of England and Ireland, and have fitted up the same with reading-desk, pulpit, communion table, and convenient pews and seats,

calculated to accommodate with sittings above seven hundred persons, and provided with Bible, Book of Common Prayer, and all other things necessary for the due performance of Divine Service; and the ground-plot of the said intended new chapel is laid down in the plan hereto annexed, identified by my signature; and it is my intention to provide a permanent endowment for a minister to serve the said chapel; and as soon as such endowment can be settled to your Lordship's satisfaction, to give and grant the site of the said building for the purpose of the same being consecrated as and for a chapel for religious worship according to the rites and ceremonies of the United Church of England and Ireland: Now being desirous of supplying accommodation for the inhabitants of the said parish to attend the performance of Divine Service in the said intended chapel, which is conveniently situated for a considerable portion of the population who are at a distance from the parish church, I request that your Lordship will be pleased to grant your licence for the performance of Divine Service in the said intended chapel, according to the rites and ceremonies of the United Church of England and Ireland: and I do hereby engage that if your Lordship shall think fit to grant such your licence, the said intended chapel shall be set apart and appropriated exclusively for that purpose.

Witness my hand this 28th day of October, in the year of our Lord 1832.

(Signature) "SOMERSET."
Plan annexed.
(Signed) "SOMERSET."

The Bishop's Fiat Indorsed.

"Having personally inspected the building herein mentioned, and highly approving it, I hereby direct that the licence issue as prayed.

Nov. 2, 1832. (Signed) "H. E."

THE LICENCE.

"HENRY, by divine permission Bishop of Exeter, greeting. WHEREAS, we have received a petition from the Most noble Edward Adolphus, Duke of Somerset, setting forth that he had lately erected in his manor of Bridgetown, within the parish of Berry Pomeroy, in our diocese of Exeter, a building designed for a chapel for religious worship according to the rites and ceremonies of the United Church of England and Ireland, and had fitted up the same with reading-desk, pulpit, communion table, and convenient pews and seats calculated to accommodate with sittings above seven hundred persons, and provided with Bible, Book of Common Prayer, and all other things necessary for the due performance of Divine Service; and the ground-plot of the said intended new chapel is laid down in the plan annexed to the said petition, identified by the signature of the said Duke, and also copied in the margin of this our licence; and that it is the intention of his Grace to provide a permanent endowment for a minister to serve the said chapel; and as soon as such endowment can be settled to our satisfaction to give and grant the site of the said building for the purpose of the same being consecrated as and for a chapel for religious worship according to the rites and ceremonies of the United Church of England and Ireland; and his Grace, being desirous of supplying accommodation for the inhabitants of the said parish to attend the performance of Divine Service in the said intended chapel, which is conveniently situated for a consider-

able portion of the population who are at a distance from the parish church, prayed that we would be pleased to grant our licence for the performance of Divine Service in the said intended chapel according to the rites and ceremonies of the United Church of England and Ireland; and His Grace thereby engaged that if we should think fit to grant such our licence, the said intended chapel should be set apart and appropriated exclusively for that purpose: Now we, the said Bishop, having ourself visited and inspected the said intended new chapel, and being entirely satisfied of the fitness of the same for the purpose of a chapel, do by these presents as far as in us lies, and we lawfully can by the laws, canons, and constitutions of this realm, give and grant our licence or faculty that the said new chapel may be forthwith opened and used for the celebration of Divine Service according to the rites and ceremonies of the United Church of England and Ireland, by a priest or minister in holy orders to be for that purpose licensed by us until we shall be enabled and shall think fit to consecrate the said chapel, or make some other order in this behalf.

"Given under our hand and episcopal seal this 9th day of November, in the year of our Lord 1832, and in the second year of our consecration.

No. 10.

Note from the Duke to Mr. Barnes.—November 11, 1832.

"THE Duke of Somerset sends his compliments to Mr. Barnes, and has duly received the Bishop of Exeter's licence for opening the new chapel at Bridgetown."

The foregoing Letters, the Petition of his Grace for a Licence of the Building for the purposes of Divine Worship, until Consecration should be obtained, and the Licence which was granted thereupon, show the conditions required by me as indispensable, and the engagement entered into by the Duke, in compliance with this requisition.

On the Licence especially it is right to remark that the effect of it, taken in conjunction with the Duke's Petition, was to secure the perpetual appropriation of the building as a Chapel for the performance of Divine Service according to the rites of the Church of England; *unless the Duke should violate his engagement.* For the Duke bound himself to secure that point as the condition of the licence being granted; and this obligation did, in truth, extend even beyond his Grace's life, if he should die before Consecration.

This is not the form, either of the Petition or the Licence, which is used in the case of a building *not permanently pledged* as a place of Church Service. In such cases, the petitioner engages, that only *while it is so used* it shall not be used for any other purpose.

And this great security, insisted on by me, and given by the Duke in his petition, did also virtually ensure *endowment*—inasmuch as the Duke could not otherwise obtain a right to nominate the minister, which had been declared by him to be his great object.

The licensee of the building having thus been granted, the Rev. J. Edwards, vicar of Berry

Pomeroy, at the request of the Duke of Somerset, nominated the Rev. James Shore, who was licensed accordingly, to perform Divine Service in the new building.

In 1834 Mr. Edwards died, and was succeeded by the Rev. E. Brown, on the presentation of parties who had purchased that turn from the Duke.

Mr. Brown, after a while, finding the chapel and hamlet of Bridgetown an unpleasant portion of his charge, consulted me on the expediency of effecting a separation; and, having obtained my consent, proposed to the patron, the Duke of Somerset, to contribute a part of the vicarial tithes of the parish towards the endowment of Bridgetown as a separate district. The Duke took time to consider this proposal; but two or three years afterwards, Mr. Michelmores, the Duke's steward, having first ascertained that Mr. Brown was willing to contribute *all the vicarial tithes* accruing within Bridgetown, to the amount of about £80 per annum, stated to him that "it was the wish of the Duke to ascertain whether the Bishop would accept this portion of tithes, to be given by the vicar, as a sufficient endowment for the purpose of consecration."

On this being communicated to me, I authorized Mr. Brown to announce my acceptance; but at the same time added, that if the endowment were made altogether out of the vicarial tithes, I could not consent to the nomination of the minister being taken from the vicar, to whom, of common right, it belonged; if, however, his Grace would augment the endowment with £70 per annum, and give a house of residence, I would assent to the patronage being vested in the Duke. It may be right to say that the rectorial tithes of Bridgetown, the property of the Duke, as lay impropiator, were understood to amount to the sum thus required as the consideration for transferring the patronage to his Grace, who was also the proprietor of all, or almost all, of the houses and lands in Bridgetown. The proposition was submitted to the Duke in the following letter of Mr. Brown to Lord Seymour.

"*Berry Pomeroy, August 6, 1841.*

"MY LORD,

"Mr. Michelmores having stated it to be the wish of his Grace the Duke of Somerset to ascertain whether the Bishop would consider the tithes of the manor of Bridgetown a sufficient endowment for the consecration of the chapel there, I have since had an interview with the Bishop on this subject.

"His Lordship thus stipulates:—Should the chapel be consecrated as a district church, endowed *solely* with a portion of the *vicarial* tithes of the parish, the Bishop would require the patronage to be vested in the vicar; but if endowed with such tithes, conjointly with an endowment on the part of his Grace making up the sum of £150 per annum, with a house for the minister, his Lordship, would give his full consent to the proposed district church, and to the patronage remaining with his Grace the Duke of Somerset.

"The interest which your Lordship appeared to take in my proposal, while it constitutes my apology for thus troubling you, encourages me to

hope that you will promote by your influence the attainment of so important and desirable an object.

"I have the honor to be, my Lord, &c.

"EDWARD BROWN,

Vicar of Berry Pomeroy.

"The Right Hon. Lord Seymour."

To this letter Mr. Brown received an answer from Lord Seymour, stating that he must consult the Duke. Subsequently, Mr. Brown met his Lordship on this subject, by appointment, at Mr. Michelmores's; but there was no result.

Such was the *only* proposal ever made to me for the endowment of the Duke's building at Bridgetown; and I have ascertained that no application whatever has been made to the Church Building Commissioners, "through the medium of whom, or otherwise," Mr. Maberley, in his letter, No. 8, had declared it to be "his Grace's most serious and determined intention and wish to do his best to procure the consecration of his chapel, and to make for it a permanent regular endowment of proper amount."

In 1843 Mr. Brown exchanged the vicarage of Berry Pomeroy for a benefice in another diocese, then holden by the Rev. W. B. Cosens.

Mr. Cosens declined giving a nomination to Mr. Shore, to be his curate; and the following correspondence passed on the subject between him and the Duke:—

"*Vicarage, Berry Pomeroy,*
Dec. 19, 1843.

"MY LORD DUKE,

"It is with the greatest pain and regret that I have found it quite impossible, with any regard to the spiritual care of this parish, to certify that Mr. Shore 'is a *fit* person to be licensed to the chapel of Bridgetown.' I think it my duty, therefore, to say that I am quite ready to nominate any curate appointed by your Grace, whose views and practices afford me a fair hope of carrying on the duties of the parish, for which I alone am responsible, with advantage to the people committed to my care. Or should your Grace wish to delay any such appointment, I am perfectly willing, in addition to my two full services here, to perform an evening service in the chapel, every Sunday for a time, without fee or reward. I beg to observe that each of these offers was distinctly made by me, and intended for your Grace's consideration, from six weeks to two months since. Lord Seymour suggested that I ought to provide for the chapel; let the matter, therefore, if your Grace pleases, be put upon that ground, and I am willing to enter into any engagement to resign the chapel into your hands or those of your representatives whenever it shall be required. I will only add, that I am ready to afford your Grace all reasonable explanation upon the subject of the chapel, should you desire it, and that I am, with great respect, your Grace's very faithful servant,

"W. B. COSENS.

"To His Grace
The Duke of Somerset."

—
Brighton, Dec. 31, 1843.

"SIR,

"Your obliging letter of the 19th instant duly

reached me, and I have always regretted extremely that any difficulties should have arisen with regard to the performance of Divine Service in the chapel at Bridgetown. Indeed, the prohibition came upon me like a clap of thunder; and I have not, to this day been able to comprehend the reason of it. But as you are so good as to offer me some explanation, in case I should desire it, I must avail myself of the intended favor; for, after all the correspondence that, I am told, has passed upon the subject, and the different conjectures that have been suggested, I am at a loss to know why you refuse to nominate Mr. Shore, whether it be in regard to doctrine or character, or with respect to what other cause your objection has arisen.

"I have to thank you for the civility of the various proposals contained in your letter, and I have the honour to be, Sir, with much respect, your faithful servant,

"SOMERSET.

"To the Rev. W. B. Cosens."

*Vicarage, Berry Pomeroy,
January 8, 1844.*

"MY LORD DUKE,

"I had the honor of receiving your very kind letter, just as I was on the point of leaving home to attend the Quarter Sessions. . . . The congregation, nearly half of whom were Dissenters from Totnes, were as nearly unchurched as I could imagine possible. Of the leading partisans of Mr. Shore, one, I am told, had been the clerk in a Dissenting meeting-house, another a well-known Dissenter, and a third, who was a Churchman, boasts that he advised Lord Seymour to get a first-rate Dissenting preacher to serve the chapel. These and all that party attend the meeting-house, though Totnes Church is within one hundred yards of it, and is not half full; and the general tone of their language, as far as I have heard it, is the grossest reviling of my predecessor, as good a man as ever lived, joined to an open expression of their desire that the chapel should be opened without the authority of the Bishop, in short, as a meeting-house. Many of the congregation who have remained true to the doctrines and discipline of the Church, regarded the chapel as a means by which the Church was made to give place to the meeting-house; and this they especially recognized in their minister's omitting, at the bidding of some Dissenters, the term 'religious' before the words 'gracious Queen' in the prayer for the Parliament; at a former period, I am most credibly informed, the Communion Service was repeatedly omitted, though Mr. Shore took especial care to inform me that he had left it out *once*. These sentiments, expressed to me by Mr. Shore, rendered it impossible for me to say that 'I believe him to be a fit person to be licensed to the chapel.' If the only alternative to nominating Mr. Shore were the resignation of the living, I should consider it my duty to take that course, rather than become an instrument to betray the interests of the Church, or to commit a suicide upon my character as a clergyman."

On the 16th of February Mr. T. Michelmores, as agent of the Duke of Somerset, did what Mr. Cosens had thus informed his Grace the dissenting portion of the congregation at Bridgetown urged Lord Seymour, then representative of the borough in Parliament, to do: he certified the

building under the provisions of 52 Geo. III., c. 155, "as a place of meeting of a congregation for religious worship of Protestants."

About this time the following handbill was circulated at Bridgetown:—

NOTICE.

"The Bridgetown Chapel, having been duly registered in the Court of the Archdeacon of Totnes, will be again opened for Divine Service, under the ministry of the Rev. James Shore, on Sunday next, at the usual time, a quarter before 11 o'clock.

"THOMAS MICHELMORE,
Agent to the Duke of Somerset."

As I could not but consider the course thus taken to be in direct violation of the engagement, on the faith of which I had licensed the building, and as Mr. Shore was now acting in open defiance of the duty which he owed to the Church in which he had been ordained, and to his own solemn vows, I directed proceedings to be instituted against him in the Ecclesiastical Courts. The successful issue of those proceedings was made the occasion of a petition from him to the House of Lords.

In that petition he called himself "a Protestant Dissenting Minister, in Holy Orders, and a Preacher and Teacher of a Congregation of *Protestant Dissenters* assembling for religious worship in a certain Chapel called Bridgetown Chapel." It recited that "he had qualified himself to act as a Dissenting Minister by taking the oaths required by 52 Geo. III., c. 155, to be taken by Dissenting Ministers, on the 15th of March, 1844"—and that "on the 15th of February, 1844, Mr. Michelmores, as *Agent of the Duke of Somerset*, in compliance with the provisions of 52 Geo. III., c. 155, had certified to the Archdeacon that the said chapel was intended to be used as a place of meeting of a congregation for religious worship of Protestants, which certificate was duly registered." The Petition concluded by praying "such relief as their Lordships should consider to be agreeable to the Toleration," &c.

In speaking to this Petition, I narrated simply the circumstances of the case, especially the Duke of Somerset's Petition for the licence exhibited above, and said, that the Duke having thus engaged to endow the chapel in order to its consecration, and to appropriate the building, previously to the consecration, exclusively to the purposes of divine worship according to the rites and ceremonies of the United Church of England and Ireland, had, for reasons which doubtless were satisfactory to his own mind, violated both those engagements.

No inquiry was addressed to me respecting what I had thus said, nor the grounds on which I had said it; but, two or three weeks afterwards, Lord Seymour went to Totnes, having previously procured a meeting of his constituents to be summoned to hear him, at which meeting he made the speech, a portion of which has been cited by the Edinburgh Review, as exhibited above (p. 54.) On my attention being called to it, I sought to take such legal steps against his Lordship as should enable him to prove his charge against me, if it was well founded; or

should enable me to establish my innocence before the world. For this purpose I addressed to him the following letter:—

“Bishopstowe, Torquay, July 28, 1846.

“MY LORD,

“My attention has been called to the report of the proceedings of a public meeting held at Totnes on Tuesday last, and especially of a speech therein stated to have been delivered by your Lordship on that occasion.

“I now send to your Lordship a copy of the newspaper, the ‘Western Times,’ of Saturday, the 25th instant, in which the report is given.

“The sentiments and tone ascribed to your Lordship in the reported speech are such, as forbid all remark or comment on my part. But I have no hesitation in making to your Lordship a proposition, which I am bound to suppose will not be lightly rejected—that your Lordship shall either deny the general accuracy of the report, or, if it be in the main part of it accurate, that you make such admission of its accuracy, as shall put me in a position to call on you to justify the speech as reported, and prove the truth of its main allegations before a jury of our country.

“I am, my Lord

“Your Lordship’s obedient servant,

“H. EXETER.

“The Lord Seymour, London.

“P.S.—I request your Lordship to return to me the newspaper, which I now send, with any statement which your Lordship may think fit.”

July 28, 1846.—Put the original letter, of which the above is a copy, with the “Western Times,” of Saturday, July 25, into the post-office at Exeter, directed as above.

FRED. KITSON.

“LORD SEYMOUR declines all communication with the Bishop of Exeter, and is not desirous of reading the Gloucester ‘Journal’ which the Bishop has transmitted.

“*Spring Gardens,*
Wednesday, July 29, 1846.”

On the receipt of this letter it was determined that my solicitor should go to London, and endeavour to bring Lord Seymour to a sense of what was due to truth and justice: with what success the attempt was made will appear from the following correspondence:—

“Exeter, July 30, 1846.

“MY LORD,

“THE Bishop of Exeter has this day shown me your Lordship’s letter to him, in which you state ‘you are not desirous of reading the ‘Gloucester Journal’ which the Bishop has transmitted to you.’

“I am a solicitor, acting with Mr. Barnes, the Bishop’s Secretary, as his Lordship’s adviser; and I feel it my duty to state to your Lordship, that, by the Bishop’s direction, I on the 28th inst. enclosed in an envelope, which was directed to your Lordship (and was accompanied by a letter of the Bishop’s), the ‘Western Times’ newspaper, of the 25th inst.

“The packet remained with me until I sealed and afterwards put it in the post-office. Having no Gloucester paper before me at the time the letter to your Lordship was written by the Bishop, I feel it due to myself to request your Lordship to have the

kindness to state whether the paper transmitted by the Bishop, and received by your Lordship, was the ‘Gloucester Journal’ or the ‘Western Times.’

“The paper which was enclosed in the envelope directed by the Bishop is signed with my initials, ‘F. & K.’

“I have the honor to remain,

“Your Lordship’s very obedient servant,

“FRED. KITSON.

“The Right Honourable the Lord Seymour.”

To this letter I received in London, on the 3rd instant, the following reply:—

“SIR,

“Saturday, August 1.

“In answer to your letter, I have only to say, that the paper received by me in an enclosure with a letter from the Bishop of Exeter was a ‘Gloucester Journal,’ with writing upon it, and apparently an address to Miss Biddle, Chelsea.

“I am,

“Your obedient servant,

“Frederick Kitson, Esq.”

“SEYMOUR.”

Mr. Kitson’s statement written to me at the time, and to the entire accuracy of which he fully pledged and pledges himself, is as follows:

“Being totally unable to account for Lord Seymour’s statement, and being anxious to give as well as to receive the fullest explanation on this most inexplicable matter, I on the 4th instant wrote to Lord Seymour as follows:

“*New Hummums, Covent Garden,*

“MY LORD,

August 3, 1846.

“I BEG to acknowledge the receipt of your Lordship’s note of the 1st instant, which has been forwarded to me here, and to request the favour of a personal interview at the earliest hour that it may be convenient to your Lordship to appoint, as I am desirous of explaining my reason for stating that the paper transmitted on the 28th July, with a letter from the Bishop of Exeter, was the ‘Western Times,’ and not the ‘Gloucester Journal.’

“I also think it right to communicate to your Lordship a letter I have this morning received from the Bishop of Exeter, and which I now call for the purpose of doing.

“I have the honour to be,

“Your Lordship’s very obedient servant,

“The Lord Seymour.

“FRED. KITSON.

“P. S.—In case I should be unable to see your Lordship, I will leave the Bishop of Exeter’s letter to me at your Lordship’s house.”

“I called with this letter at Lord Seymour’s residence, and delivered it with my card to the servant, requesting him to ask if I could see his Lordship. The servant returned in a few minutes, and said, ‘his Lordship was then very much engaged.’ I desired the servant to request his Lordship to name his own time. This message was, I presume, delivered to Lord Seymour, as immediately afterwards the servant returned, and said, ‘His Lordship desires me to say, he has read your letter, and is unable to make any appointment.’ I then left the following letter to me from the Bishop, of Exeter, dated the 2nd August, for Lord Seymour’s perusal:—

“*Bishopstowe, Torquay, August 2, 1846.*

“MY DEAR SIR,

“MR. Barnes has sent to me a copy of your letter of the 30th ultimo, to Lord Seymour, and of his Lordship’s answer to you of the 1st instant, which I enclose herewith.

"The circumstances of this case are most mysterious, and seem to defy all attempt at elucidation.

"In your office on Saturday last, the 28th of July, I wrote an address to Lord Seymour, London (with my name, H. Exeter), on a large envelope, in which you, in my presence, and by my direction, placed a copy of the 'Western Times' of the 25th ultimo, which you showed to me, and which you have subsequently informed me was marked by you with your initials.

"I gave to you also a letter from me to Lord Seymour, to be put in the same envelope, which you assure me you did so place, and which it is certain was so placed, because Lord Seymour received that letter, and answered it to me by return of post.

"That the newspaper which accompanied that letter in the envelope did not pass from your hands till you had sealed it (I conclude with my seal, as I directed), and put it into the Exeter post-office with your own hands, but also that you had not, nor ever had, in your possession, nor ever (as you believe), saw a Gloucester newspaper; and your clerk, who had had been questioned by you, makes the same declaration of himself. Indeed, you say that the envelope was not out of your own keeping, till, having been sealed by you, it was committed to the post-office.

"I now add, that I had no 'Gloucester Journal' in my possession, that I had not seen any such paper for many years, and that I am utterly ignorant of the existence of any such person as 'Miss Biddle, Chelsea,' to whom Lord Seymour writes to you that there is in writing on the paper apparently an address. It is, therefore, physically impossible that a 'Gloucester Journal' should have been placed in the envelope through any inadvertency of mine.

"I advise your waiting on Lord Seymour, and endeavouring to see his Lordship, showing this letter to him.

"I am, my dear Sir,

"Yours faithfully,

"Frederick Kitson, Esq."

"H. EXETER."

Hearing nothing from Lord Seymour, I on the same day addressed him as follows:—

"*New Hummums, Covent Garden,*

Aug. 3, 1846.

"MY LORD,

"As your Lordship declined to favour me with an interview this morning, may I request your Lordship to return to me the paper which was enclosed in the envelope addressed to your Lordship on the 28th July, by the Bishop of Exeter, as received by you.

"If your Lordship will leave the newspaper with your servant, I will call for it at eleven o'clock to-morrow; or, should you wish to retain it, I will leave it in his hands.

"I may add, that I never saw any newspaper or other writing addressed to 'Miss Biddle, Chelsea,' in my life.

"I have the honour to remain,

"Your Lordship's very obedient servant,

"The Lord Seymour."

"FRED. KITSON."

This letter was delivered at Lord Seymour's house, in the evening of the 3rd instant, and on the following morning I called at the time named in my note, and on inquiring if Lord Seymour had left any paper for me, the servant placed in my hands an unsealed envelope, addressed to me, of the 2nd instant.

Thinking afterwards that it was possible Lord Seymour might have misunderstood my second note of the 3rd instant, I addressed him as follows:—

"*New Hummums, Covent Garden,*

Aug. 4, 1846.

"MY LORD,

"I YESTERDAY wrote to your Lordship, requesting

you to return the newspaper which your Lordship states was enclosed in the Bishop of Exeter's letter to you of the 28th July. On calling this morning at your house at the time mentioned in my note (eleven o'clock), your servant placed in my hands an unsealed envelope, containing the Bishop of Exeter's letter to me of the 2nd instant, which I had left yesterday for your Lordship's perusal.

"I now beg your Lordship to inform me whether I am to understand that you intended this as the answer to my letter requesting the return of the newspaper.

"I have the honour to remain,

"Your Lordship's very obedient servant,

"The Lord Seymour."

"FRED. KITSON."

This letter was delivered at Lord Seymour's house on the day it bears date, and to it I have received no answer whatever.

Upon this correspondence I make no further comment than to say, that if any person can devise any explanation of Lord Seymour's part in it, which is consistent with any principle of action, which an honourable man would not blush to avow, I heartily wish that his Lordship may have the benefit of such a construction.

After this, my utmost endeavours were exerted to obtain such legal evidence as should enable me to proceed against Lord Seymour, either criminally, or by action at law, as I should be advised. For this purpose my solicitor went to Plymouth, where the first report of Lord Seymour's speech was published in a newspaper edited by the brother of the editor of the Exeter Western Times. The following letter gives the result of the interview:

"MY LORD,

"I DID not return from Plymouth until late last night, having to wait at Plymouth until Mr. Latimer could consult his legal adviser, Mr. Bulteel, which he very properly wished to do, and who (Mr. B.) was afterwards present at our interview.

"The advice he gave was to tell everything, as he would otherwise himself be liable to an indictment.

"Mr. Latimer, who was perfectly civil, then stated, without any threat or inducement on my part, that he himself attended the meeting at Totnes, but not at Lord Seymour's request, or in consequence of any communication from him.

"He (Latimer) took the notes himself in shorthand, and produced them to me; the report in his paper is a transcript of such notes, and he will swear to their accuracy, and to having heard Lord Seymour speak them.

"After the meeting was over, Lord Seymour sent to him to say he should like to read his notes, but this Latimer declined, as the 'Western Times' report was gone, and if Lord Seymour altered his (Latimer's) report, there would be a difference between the two.

"Lord Seymour never saw his notes, nor had he any authority or direction from him to publish them; it was entirely his own act."

We had thus obtained evidence that the offensive words were spoken by Lord Seymour, but none to implicate him in the publication.

The case was laid before the most eminent

counsel, who advised,—first, that an indictment would not lie for the words spoken; secondly, that although a criminal information would undoubtedly be granted if I were a layman, on the ground that the speaking such words manifestly tended to a breach of the peace; yet as such a consequence could not be apprehended from slanderous words spoken of a Bishop, the rule would not be granted.

So much for criminal proceedings against Lord Seymour. As to an action, I was advised, that if the words had been spoken of me as a Bishop, the action would lie. But this not being so, the words being applied to what I had said in Parliament as a member of the House of Lords, a civil action on account of them could not be sustained.

Then the point was considered whether the action could be brought under the old statutes of *De Scandalo Magnatum*. But here, too, I was strongly urged to forbear from the attempt, because those statutes were practically obsolete, and an attempt to revive them in these days would be not only very odious to the people, but would most probably be regarded with much disfavour by the Court.

Upon the whole, therefore, the opinions given to me by two most eminent counsel were decidedly opposed to any legal proceeding against Lord Seymour.

It remained for me to endeavour to do justice to myself by proceeding with an indictment against the editor of the *Western Times*, who had not only published the speech, but had accompanied it with the offensive comments quoted by the Review. The defendant entered a plea of *justification*. The case was tried before Mr. Baron Platt and a special jury at Exeter, the chief evidence consisting of the written documents exhibited above, especially the Duke of Somerset's petition for the licence, and his accepting the licence on the grounds and under the conditions therein expressed. The following is part of the judge's charge to the jury:—

"There does not seem to be much doubt that the offer respecting this chapel was made to the Bishop, and that he was ready to consecrate it, provided it was endowed, the land of the chapel conveyed to the Church, and that the chapel should be used for Divine Service according to the ritual of the Church of England. You will have to consider whether he did grant the licence, upon the Duke's entering into that engagement, for the endowment and consecration of this chapel. If he granted the licence, having obtained that engagement, why then he was perfectly right in what he stated in the House of Lords, and this issue also must be found for the Crown, the basis of the libel being the falsehood of the allegation in the House of Lords."

The letters were then read by the judge, observing on them as he went on, and commenting on the following passage in Mr. Maberley's letter to Mr. Barnes of the 22d of September, 1832, in which he states,—

"It is his Grace's most serious and determined intention to do his best, through the medium of the Church Commissioners and otherwise, to procure the consecration of this chapel, and to make for it a permanent regular endowment of proper amount; with

the expression of this intention, the Bishop will, I doubt not, knowing his Grace's attachment to the Establishment, feel satisfied and rest content."

Upon this the judge observed,—

"Are these things to be treated as a matter of form? It never can be intended that an individual in the rank of life of the Duke of Somerset shall not be bound by what his agents state on his behalf; that can hardly be conceived for a moment. Mr. Maberley's duty was to see that the Duke did not enter into an engagement which he never intended to fulfil."

The judge then remarked on the petition for the licence, on which he said,—

"The diocesan would desert his duty if he granted the licence without having a declaration on the part of the person signing it, holding out certain events intended to take place, and which alone formed the inducement on which the Bishop would grant the licence."

"Do you suppose that the Duke, if he told the Bishop that he would not endow this chapel, would have obtained this licence? The Bishop certainly would never have issued the licence."

His Lordship next read Mr. Barnes's letter to Mr. Maberley, of September 25, and his answer of September 26, showing the Duke's title to the property, and inclosing plans, &c.; and proceeded,—

"What was the use of ascertaining the Duke's title, which had been alluded to in the preceding letter of Mr. Barnes, unless it was for the purpose of making over the chapel and endowing it?"

The judge, in referring to the petition of the Duke for a licence, said,—

"If you think that this was not an undertaking on the part of the noble Duke, you will say so. But it seems to me, that the literal meaning of the language would convey to a reasonable man, to whom this Petition was addressed, that the Duke entered into the engagement which is alleged, although the word 'undertake' is not actually used. If this was an agreement proved between the parties, it would be my duty to state to you the legal effects of the terms which it contained. But this is a question between the Duke and the Prelate, as to what they meant between each other at the time; whether the former did not enter into a solemn engagement with the latter upon this correspondence. If he did not, the Bishop is wrong; if he did, the Bishop is right. You will say, looking at the whole, whether you collect that the Duke did hold out to the Bishop an expectation that he would endow the chapel."

"If you think that he did hold out that intention in such a manner as amounted to an undertaking, then it seems to me that the Bishop was perfectly right in saying that the pledge had been given, and that it had been violated."

"We cannot respect persons here. . . . If the party states that from which he afterwards departs, it is for us to judge the transaction according to the principles of justice, and to state what the evidence brings home to our minds as to the justice of the case; after finding first whether the matter charged in the indictment is libellous you will in the second place say whether the Duke did not undertake to endow

this chapel. That it has not been endowed is quite certain. If you collect from the nature of the correspondence, and *no man to whom that Petition was addressed but must have concluded that the Duke undertook to endow that chapel*, the verdict must be for the Crown on that issue also, because the Bishop stated in the House of Lords that which he was justified in stating, and which was perfectly consistent with the truth, and the libel in that respect will be false.

"If, however, you think that the undertaking was not given, you will give the verdict for the defendant on that issue."

After the evidence so adduced, and after these comments on it by the judge, the jury found a verdict for the defendant; and in that verdict the honest reviewer has exulted, as we have seen. But the matter did not stop here; the defendant's counsel subsequently made application to the judge for costs, which was refused, the judge saying, "I do not think you would like a new trial; you were exceedingly lucky in getting the verdict. How it was given, I do not understand quite: *I thought it was a very wrong verdict, I assure you. Unless the jury were misled, one cannot understand it.* You have a right to keep all you got, and no more."

The learned judge here suggests that there had been the possibility of a new trial; and I have been told that it has been boastfully said that I dared not apply for a new trial. It is very true that I dared not. The matter was much considered. First I was told that to grant a new trial, in the case of an acquittal, however manifestly wrongful, was without precedent; and although under the new law of libel there were reasons for the application which did not exist before, yet it was deemed very uncertain whether the attempt would be successful; while to fail for any reason would be very damaging.

In the next place, if a new trial should be granted, was I prepared to go again before an Exeter jury? Had I reason to hope, that another set of jurors there would be found less prejudiced, less ignorant, or less willful, than those who had pronounced against me on the trial? The very plain and glaring strength of my case—the very strength of the observations of the judge upon it, showed, unhappily, how little confidence could be placed in such a jury.

Let me not be misunderstood. I should be sorry to be supposed to believe that the majority of the citizens of Exeter are unfit to be entrusted with the sacred duty of administering the best and highest privilege of the subjects of a free State. But this I say, that in the present state of society in England, the English trial by jury, except as a security against the excesses of regal power—excesses which are never likely to be experienced again—is, in any cases into which party spirit can enter, one of the very worst expedients for eliciting a true judgment which the ingenuity of man could devise.

Not many years ago, having occasion to consult a very eminent counsel, now a not less eminent judge, whether I should bring an action in a matter where a pecuniary interest only was concerned, he told me, that my case, not only in law, but in justice, was clear; "Yet," said he, "I advise you not to bring an action. My experience of juries since the Reform Act, is, that you are never safe if there be any

ground whatever for a popular appeal to them. They now think themselves at liberty to give their verdict, not as the law, or even as justice, rightly understood, may prescribe, but according to their own views of what is fitting." As the learned person who was advising me had himself been an ardent Reformer, I could not help remarking to him that this was a startling admission for him to make. "It may be so," said he, "but I am giving you the result of my own experience."

To return to my own case. I frankly own I dared not venture on the lottery of another special jury at Exeter. A small minority of Radicals, or Puritans, or Misbelievers—nay, a single one of these on the panel—one single hater of Bishops in general, or of myself in particular—might be sufficient to weary out the patience of his more honest fellows, and extort from them a verdict like that in *Regina v. Latimer*.

Lord Clarendon tells us, that when the Bill "for extirpating Episcopacy" was pending in Parliament, they who prosecuted the Bill did so "with impatience" and perseveringly, while "the others who abhorred it, growing weary of so tiresome an attendance, left the House at dinner-time, and afterwards followed their pleasures: so that the Lord Falkland was wont to say, that 'They who hated Bishops, hated them worse than the Devil; while they who loved them, did not love them so well as their dinner.' " I am afraid that a similar feeling is too likely to be found in the jury-box of these days.

There is, besides, in the present times, a special provocation of popular dislike of some amongst us—the ultra-Protestant feeling which, prevalent in many places, is peculiarly so in Exeter. A large portion of its inhabitants—not of the lowest orders—scruple not to regard me as little better, if at all better, than a Papist, because I deem it my duty to stand by that teaching of the Church which is older by 1200 or 1300 years than that of Wittenburgh and Geneva. So recently as the 5th of November last there was a great display of this Protestant zeal, sustained at a very considerable expense, by persons who would be termed "respectable," if the possession of money sufficed to confer that title. The programme of a "Grand Triumphal Procession" is now before me, in which the mob were taught to regard their Bishop as the representative of the great enemy of mankind. Effigies of myself, and of several of the most learned, most active, most devoted of the city clergy were prepared for the flames, and many of them actually burned. I am told that a few private gentlemen exerted themselves to prevent my effigy from meeting with this fate. I know not who they were, but should rejoice to thank them for their kindness. Would, however, that the burning of my own effigy—and all the worst that they could do to me—had taken effect, rather than that an indelible brand of shame had been stamped on a city which prides itself on the motto of *Semper Fidelis*. I shall not be deemed to speak too strongly, when I say that a large cross of wood was burned at the western door of the Cathedral—after public notice of the intention printed and circulated freely through the place—yet without the slightest pretence of precaution by the authorities—nay, it was done in

the presence of the police, who were silent gazers on the spectacle—for “no directions were given, and no steps taken to stop the proceedings.”

But enough of this. If I know myself, I should not have made so long a story, had my own personal interests only been concerned. But an attack on the character of an English Bishop, in the pages of a Review which circulates in every country where English literature or English history is an object of attention, demands notice; and if it has received from me more notice than it demanded, I trust that my readers will bear with my garrulity.

In conclusion, I know not whether I shall be believed, when I add, that the matter has caused to me less vexation than my accusers probably anticipated. At my age—considerably beyond the appointed days of man—human judgment of my conduct is, as it ought to be, a matter of comparatively little moment. Not that I affect to be indifferent to the opinion of the world—certainly not of the wise and good—on the contrary, I fully admit, that “consentiens laus bonorum, incorrupta

vox benè judicantium,” is the highest enjoyment which this world can give. But it is an enjoyment which cannot safely be pursued as an *end*. “It must follow,” as a great man has truly said, “not be followed, if it is to be indeed worth anything.” We must be content (God grant that I may be enabled, as well as content) to pursue the path of duty, whether it be smooth or rough—whether attended “by evil report or good report.”

Farewell, my dear Sir,

And believe me always very faithfully yours,

H. EXETER.

Sir Robert Harry Inglis, Bart., M.P.

P.S. As I understand that the Reviewer has made various statements to my discredit in respect to the distribution of my patronage, to my excessive desire to enrich my family with it, and especially with my undue eagerness to obtain patronage by lapses, I have desired my Registrar and Secretary to report to me on these particulars, which Report I give in an Appendix.

APPENDIX.

PATRONAGE—NEPOTISM—LAPSES.

LETTER to the BISHOP of EXETER from RALPH BARNES, Esq., his Lordship's Registrar and Secretary.

MY LORD,

YOUR Lordship has requested me to look at an article in the "Edinburgh Review" of this month, and to give to your Lordship a statement of facts relating, first, to your exercise of the patronage of the See generally; secondly, with especial view to what has been done for members of your own family; thirdly, in respect of lapses.

I. With regard to the first of these particulars, I find that there have been sixty-one vacancies of benefices in the patronage of the See during your Lordship's incumbency, of which the present is the twenty-second year.

Of these, *ten* have been given by you to incumbents of the diocese, in the way of promotion; not one, as I fully believe, having been given to be held in plurality. *One* to a schoolmaster of the diocese. *Forty-six* have been given to *curates* of the diocese, *three* to clergymen who, having been formerly curates here, have been brought back by your Lordship; of these three, two are your own sons, the third the Vice-Principal and Professor of Hebrew of Lampeter College, formerly curate of a populous parish in Exeter. There remains one case of a clergyman who was permitted by you to exchange his benefice in Yorkshire for one in this diocese, which was held by a nephew of your lady, who had served her several years as a curate before he was collated to the benefice. This benefice was soon afterwards vacated, and given to a curate of your Lordship's diocese.

Besides the benefices belonging to the See, *four* have fallen to your Lordship under the Corporation Act—all these have been given to curates of this diocese.

Your Lordship has also, as a member of the Chapter of Exeter, nominated to eleven vacancies of benefices in the gift of that body—*nine* in this diocese, *two* in the diocese of Oxford. Of the nine, four were given to curates of the diocese, two to incumbents of the diocese, of whom one was about to resign his benefice, which he held under bond for a minor: of the other three (which were successively vacancies of the vicarage of the parish in which you live), one was given to your chaplain, and on his resigning it, to a clergyman who had been many years in the diocese—a considerable portion of that time as a curate, and on its again falling, to the Rev. Alexander Watson, of Cheltenham, in acknowledgment, as your Lordship has stated, of the services rendered to the Church generally by his many works, and to

yourself in particular by his work, entitled "An Apology for the plain Sense of the Doctrine of the Prayer Book on Holy Baptism," in which he vindicated you from an attack of the Reverend W. Goode.

Of the two benefices in the diocese of Oxford, one was given by you to an incumbent of this diocese, the other to a clergyman of the diocese of Oxford, as a consideration for his father's resigning a benefice held by him in plurality, on which he could not reside. This you gave to a perpetual curate of a populous parish of this diocese, thus securing to the benefice the advantage of a resident rector, which it had not enjoyed since the year 1798.

There is one other case, that of a perpetual curacy in a town, with an endowment of £60 or £70 per annum, but without a house. This not being acceptable to any person of this diocese, who had sufficient property to fill it usefully, was conferred on a clergyman of a distant diocese, known to your Lordship, who was willing to accept it in order to give his sick wife the benefit of a mild climate. *This ease, and that of the Rev. A. Watson, are the only instances of benefices now held in this diocese on your Lordship's nomination by clergymen who were not previously of the diocese.*

There have besides fallen to your Lordship's patronage nine vacancies of the districts under Sir R. Peel's Act, of which, in seven instances, the districts were conferred on curates at the time serving in the diocese; one on the incumbent of a small benefice in the diocese, one only on a clergyman of another diocese, known by his previous residence in this diocese, and recommended by clergymen of the highest character in it. He had the further recommendation of an ample private fortune, which enabled him the better to assist a very poor and populous district of miners.

The whole account, therefore, stands thus:—

Vacancies of Benefices in the gift of the	
See, - - - - -	61
Ditto in the gift of the Dean and Chapter,	
to which your Lordship nominated, -	11
Under the Corporation Act, - - -	4
Districts under Sir Robert Peel's Act, -	9
	—
	85
	—

Of these you have given—

To Incumbents in this Diocese, - -	14
To a Schoolmaster of this Diocese, -	1
	—

Carried forward 15

Brought forward	15
To Curates of this Diocese, - - -	62
To Clergymen formerly of this Diocese, -	3
To Clergymen of this Diocese (one being a Benefice in the Diocese of Oxford to a Clergyman of that Diocese), the cases being those which have been stated above, - - - - -	5
	<hr/> 85

II. In respect to the second point, to which your Lordship directs my attention,—what has been done by you in providing for members of your own family,—I have to state, that of *eight* sons, who lived to man's estate, your Lordship admitted *two* to Holy Orders and conferred on each of them a benefice, with an income of not more, I believe, than £300 per annum clear. To the elder of them you have given moreover the Archdeaconry of Cornwall, with a clear income of about £300 per annum.*

To a son-in-law, who had served as a curate in this diocese many years, even after his marriage, you gave a benefice of a clear income, as I believe, of not more than £300 per annum. For another son-in-law, who had also served as curate many years after his marriage, you obtained the benefice of the parish to which his house is contiguous, and in which a considerable portion of his property is situate, producing a clear income of less than £300 per annum, in exchange for one to which you collated the incumbent of the former benefice. This benefice is now become again vacant, and your Lordship has desired me this day to state, that to it you have given a fiat for the collation of the curate of the parish in which you live; which curate is about to become your son-in-law.

Your Lordship has collated a nephew of your own to a benefice from which, his private fortune

*The Reviewer, I am told, has stated, that one of my sons applied to his College for testimonials of his fitness for Holy Orders, and was refused. This is not true. The real facts are as follows:—

One of them had incurred the censure of his College by a violation of discipline. But *no act of immorality* was ever charged against him. On his return home, after taking his B.A. degree—which he took in honours—I spoke to him, as a father might be expected to speak, of the conduct which had brought him under censure. I advised him to think of some other profession: for I feared he had not that spiritual-mindedness, without which, he could not be fit for Holy Orders—adding, that nothing would induce me to ask preferment for him, if he should be unworthy. He answered, that his most earnest desire was to be a clergyman—even if he were to remain a curate all his life. Upon this, I placed him on probation; and at the end of two years, being fully satisfied, I ordained him. It was not necessary for him to apply to his College for testimonials; and he did not apply. He came not as a candidate from the University; but was accepted on my own knowledge of his fitness. I thank God, he has justified my confidence. He has been in Holy Orders more than twenty years. During that time he has served in more than one diocese, and in several parishes; and I defy the most rigid censor of clerical character to deny, that, during every portion of his clerical life, his conduct has been not only unreprouched, but irreproachable. If I should add *exemplary*, those who have known him best, would sustain the assertion.—H. E.

enabling him to employ the assistance of two curates, the clear income is probably not £50 per annum.

There is, lastly, a nephew of your lady, who, having served in the diocese as curate several years, was collated by you to the vicarage of Stockland, which fell to you by lapse, under circumstances which I shall state presently. I will here only say, that it was your purpose to present it to another clergyman, to whom you made the offer. But as he declined it, by reason of the lawsuit in which the new vicar must be involved, you offered it to the Rev. Henry Ratcliffe Surtees, warning him of the hazard he incurred, which hazard did not deter him from accepting the offer.

Of Mr. Surtees, the 'Review' contains a statement, that he was found guilty in an action in the County Court of an assault on one of his parishioners. I have made it my business to inquire into the facts of this case, which, in the public report of the proceedings, appear as follows:—The Rev. Henry Ratcliffe Surtees had, agreeably to the Bishop's directions, *cautioned his candidates against going to any public-house* after the confirmation. They had promised him to attend to this caution, and, in order that they might have no temptation, he had himself provided them with conveyances, and provision of meat and drink. Notwithstanding this, several of the young men on their return went into a public-house, and Mr. Surtees, hearing that they were there, went thither, found them drinking and singing, and pulled one of the lads out of the house by the collar. The lad sued him for an assault in the County Court, and the judge, treating it as a mere assault, gave the plaintiff five shillings damages, with costs.

Now, my Lord, I had never before read any report of the case. I have now read it, occupying more than two full columns of a newspaper of the day; and I venture, with all confidence, to say, that no candid mind would rise from the perusal without more than acquitting Mr. Surtees of the Reviewer's innuendos, and convicting the author of the note of slander.

III. With regard to the third point, that of lapses, the Reviewer starts with some curious positions in regard to the law, which were not very likely to lead him to a just conclusion:—"The law gives to the Bishop no cognizance of the patron's *title to present*, that being regarded not as an ecclesiastical but as a civil right, cognizable by the Court of Common Pleas, not by the Court of Arches. Hence, if there be but one undisputed claimant to the right of presentation, the Bishop's duty is simply to institute the patron's nominee, without questioning his title." (The italics are the Reviewer's.)

The Reviewer's law substantially amounts to this, that the Bishop is bound to accept the presentation of any one; that he has no cognizance of the alleged title to present; and so that any usurpation may, through the Bishop's negligence, still more by the Bishop's connivance, be perpetrated against the true patron's right. The Reviewer continues:—"If there be more than one party claiming to present, the Bishop must nominate the nominee of that party, whose claim seems best founded," introducing a note, that "there is a legal method provided, whereby the Bishop is bound to ascertain this, called a *jus patronatus*." The Reviewer would then allow to the Bishop in

some cases a judicial function. Now, in truth, the Bishop has one and the same judicial function precisely in every case. As to the particular mode of inquiry by "jus patronatus," it is a proceeding however wisely founded, very rarely fit to be adopted, from its want of power to scrutinize the truth. In no instance in this diocese, either in my time or for a period, I believe, long before, has such a proceeding been taken; and it is manifestly inapplicable to the cases which form the gravamina of the "Review." Why, my Lord, if the Reviewer's law be right, it would go well nigh to expunge from the law the titles of advowson, and right of patronage altogether; for as the putting of the clerk into the benefice is the only fruit of patronage, the power which the Reviewer would give to the Bishop would really be putting into the Bishop's hands the power of usurping every bit of lay-patronage in his diocese. And were the charge brought against the Bishop by the Reviewer true, that "he appears to have systematically acted upon the theory that all the patronage of the diocese rightfully belongs to the Bishop, and that all means are justifiable which may defeat the claims of any other patron." then, indeed, the power which the Reviewer invites the Bishop to exercise, and lays down as his duty in every case, that of taking the presentation of every claimant not disputed, and instituting upon it, without questioning the title, that is, without satisfying himself of the validity of it, would be the ready means of systematically carrying out the theory imputed. But, my Lord, the Reviewer's statement of the law is most unfounded. The duty of the Bishop is, in every case of the exercise of patronage, to inquire and obtain reasonable satisfaction upon the validity of the right alleged. The power and due exercise on the part of the Bishop of that reasonable inquiry is the patron's privilege; and the means provided for maintaining and recording the chain of title wherein the property of the advowson itself consists are his security. We shall see presently whether in this diocese, during your Lordship's Episcopate, that power and that duty have, or have not, been reasonably exercised. But, first, it is my duty to your Lordship to say, that *in whatever degree this power has been exercised during your time, it has been so exercised (such has been my privilege) solely under my administration as your Lordship's legal adviser.* It has been so conducted under rules which I have found most to accord both with the preservation of the right of patronage and the Bishop's security; and I have every reason to believe that no just ground of complaint has been afforded. I have never sought for more than such information and such evidence as agreeably with the circumstances of the case appeared to me to be the readiest means of affording a reasonable assurance of legal title in the party presenting. Sure I am that *I have never received from your Lordship any directions or instructions of any kind, to be more or less strict in any inquiry of this nature, generally or specially.* I have simply endeavoured to ascertain in whom resided the legal right. I have given every aid and assistance in my power, when requested, to make good that right; and I am unconscious that hardship to the patron in the slightest degree has ever been the consequence of the inquiries I have thought it my duty to make.

I proceed to state the facts of the three cases adduced in the "Review,"—those of Chudleigh, Combpyne, and Stockland. The Reviewer alludes to two other cases of lapse, as having happened in the same month (the autumn of 1837) with Combpyne, as if these five cases were mentioned only, "in passing, as a sample of the vigour of his (the Bishop's) administration." Now, the fact is, that during your Lordship's incumbency in this see, in other words, in the course of more than twenty-one years, there have been somewhere about 800 institutions and licences to benefices. But no litigation, as far as my recollection serves me, has ever taken place concerning right of patronage between the Bishop and patron, except only in those very three cases of Chudleigh, Combpyne, and Stockland. And the only instances wherein the Bishop has exercised his right of lapse, in cases other than the five mentioned in the "Review"—Chudleigh, Brushford, Roborough, Combpyne, and Stockland—are the following:—In 1832 your Lordship collated by lapse to the Vicarage of Paignton, the patron having, on a scruple of conscience, declined to present. In 1837 you filled by licence the Perpetual Curacy of Brushford, of £40 or £50 per annum, the patron having made no nomination. In the same year you collated to the Rectory of Roborough, the patron, a clergyman, having petitioned for himself to be instituted, but having withdrawn that petition and not presented any one else. In the same year occurred the case of Combpyne, which will presently be noticed. In 1838 you collated to the Rectory of Luffincott, a benefice below the value of £100 a year, the patron not having presented. And, lastly, your Lordship collated to Stockland. There were, indeed, two other cases of licenses to Perpetual Curacies by lapse,—in 1832, Penzance, and in 1834, St. Juliot's—the particular circumstances of which are not in my recollection, and I have been unable to find anything to explain them; but I am confident that there was no dispute whatever about your Lordship's right by lapse.

Now, first as to the Combpyne case:—

Except the bare facts that there was a presentation which the Bishop refused to accept as valid, and afterwards collated by lapse, and that the Court of Common Pleas upon argument on demurrer, in *Quare impedit* brought by the patron claiming title, held the presentation to be valid; the whole version of the story as told in the Review—the whole tissue of the Reviewer's inuendoes is absolutely and essentially untrue.

The living became vacant on 11th November, 1836. The first intimation on the part of the patrons was received by the Bishop from the clerk to be presented on the 28th April, and by me from the patrons' solicitor on the 1st May following. The lapse would occur on the 11th May. The title shown was that the right of patronage was vested in Mrs. Edwards and Mr. Knight as co-tenants. I required, as I have always done in such cases, that the co-tenants should join in presenting; and I refused, on the part of the Bishop, to accept the presentation tendered on the part of Mrs. Edwards. My objection was not founded on, nor had any reference to, her co-tenant being a *Roman Catholic*. The reason given for Mr. Knight's not joining was that he claimed no title to present on this turn,—that he *disclaimed*.

But no such disclaimer was ever produced, and it was not until the 9th May that any intimation whatsoever was given that Mr. Knight was a Roman Catholic. If Mrs. Edwards had intended to make her title through her co-tenant's title, he being a Roman Catholic, it was for her to apply to the University of Oxford for its concurrence. But she chose to rest her claim on her own right, distinct from her co-tenant, and she succeeded. It was my advice to the Bishop, sanctioned by the opinion of one now invested with a very high judicial function, that if the statutes which transferred to the Universities Church patronage vested in Roman Catholics had any application, they would make the University, in a case like the present, a co-patron. The Court of Common Pleas decided otherwise. The case is fully reported in the fifth volume of Bingham, and it must be quite sufficient, to show the law was not clear, that the Court having, in order to protect the Bishop from costs, certified under the statute that the Bishop had probable cause for defending the action: on an application to discharge that certificate, a report of which is in the sixth volume of Bingham, the Court refused the application; the Chief Justice Tindal saying, "As to the question whether the Bishop had probable cause for defending the action, in a case which we took time to consider, it might be permitted to the Bishop to doubt." And Bosanquet, Judge, said, "Considering the host of authorities to which we were referred on the argument, I think the Bishop had probable cause for defending the action." To which Erskine, Judge, added, "I think the Bishop had probable cause for defending the action, which he did, not on the ground that he had himself collated another incumbent, but on account of difficulties as to the title of the plaintiff." And now for the sequel of the Reviewer's story:—"The judgment of the law having been pronounced, we might have supposed that the Bishop would be eager to remedy the injustice he had committed, and atone for the heavy expenditure which he had thrown on the injured party, by immediately instituting the rightful incumbent. On the contrary, the delays interposed were so vexatious, that at last the patron was compelled to appeal to the Metropolitan for redress, when he obtained from the right-minded Archbishop Howley immediate institution. Thus the case of Mr. Gorham was not the first where the authority of the Archbishop of Canterbury was called to perform an act of justice, which the law had imposed on the Bishop of Exeter. Nor was Archbishop Sumner the first Archbishop whose Metropolitan jurisdiction was invoked to restrain this contumacious suffragan." Now mark the facts which have produced this tirade:—First, as to the Bishop's interposing vexatious delays, no step was taken on the part of the Bishop, save his successfully resisting the patron's application for costs. The clerk, rightfully, as it turned out, presented, never applied for institution. He addressed a letter to your Lordship, now in the Registry, dated January, 1840, renouncing all claim to the living; and I may, perhaps, my Lord, under present circumstances, be allowed to quote a paragraph of that letter. He says, "I have been much hurt at finding that certain scurrilous comments relative to the suit have been going the round of the newspapers. I feel it due, both to your Lordship and

to myself, to declare that I have had no hand, directly or indirectly, in giving circulation to such comments, and that I am far from participating in the unbecoming and uncourteous spirit in which they are made." It belonged to the patron herself to follow her own course in obtaining the fruits of the judgment. It was not likely that she would take any advice on my part. There was no necessity for her appealing to the Metropolitan; and my own opinion at the time was that the case did not allow her appealing to him; that the writ ought to have gone to the Bishop; and I find that I stated that opinion in a communication at that time to the Archbishop's secretary, but she chose to apply for, as she had a perfect right to do, a writ to the Archbishop to institute her clerk—she obtained that writ, and the Archbishop instituted upon it. Such is the sum and substance of this case. But as the Reviewer has thought fit to charge your Lordship with contumacy to the late Archbishop, I think it right to insert the enclosed copy of a letter from you to your London Secretary, which I have found in the registry with the office papers on this subject.

(Copy.)

"To J. Burder, Esq.

"College, Durham, 17 August, 1840.

"DEAR SIR,

"I HAVE this morning received your letter enclosing Mr. Hodgson's official notice of a writ and presentation of the Rev. Z. I. Edwards, by Mrs. Martha Edwards, of Combpyne Rectory in the county of Devon and Diocese of Exeter, addressed to his Grace the Archbishop of Canterbury, having been left (it is not stated where, but I suppose in Dean's Yard), and of this notice having been given to me, in order that I may intimate to his Grace whether I have any objection to the grant by his Grace of the institution sought under this presentation.

"I request you to communicate to Mr. Hodgson, for the information of his Grace, the following answer. Personally, I not only have no objection to such institution being granted, but I shall be really glad if it appears that it can be granted legally under this presentation, for I wish the affair to be concluded.

"In order that his Grace may be better enabled to judge what course he should take, I will here relate the circumstances of the case so far as my memory can recall them.

"About three years ago the Rectory of Combpyne fell vacant. A short time before the expiration of six months a presentation was either shown to my secretary, Mr. Barnes, or a claim to make such presentation was made on behalf of Mrs. Edwards. Mr. Barnes was of opinion, and accordingly advised me, that Mrs. Edwards, being *tenant in common* of the right of advowson (with a Roman Catholic), could not claim to present alone. I, in consequence, declined to assent to her right. Time flowed on, lapse accrued, but I did not avail myself of the lapse until nearly six months more had elapsed, thus giving an opportunity to Mrs. Edwards to apply to the University of Oxford to join her in a presentation, for I believed that the University was entitled to the Roman Catholic's interest. About that time a formal interest of presentation to me by Mrs. Edwards of Rev. — Bradley (I think that was the name) was tendered to me by the clerk in person. Under legal advice, I declined instituting him, and *collated the curate of the adjoining parish, who had performed the duties during the sequestration.*

"*Quare impedit* was brought against me, and, being advised by Mr. Knight Bruce, I defended my collation. The question was reserved at the assizes* by Lord Denman (with consent of the parties if I mistake not) for the adjudication of the Court of Common Pleas. On hearing the arguments, the Court intimated strong doubts, and postponed their decision; subsequently they pronounced in favour of Mrs. Edwards's presentation, but on an application being made for costs to be awarded to the plaintiff, they repelled it with some energy, saying that the Bishop might well object to the presentation, and doubt the propriety of instituting upon it, for that the Court itself had felt great doubts upon the point.

"The doubts were founded on the point that the other tenant in common was a *Roman Catholic*; had he been a Protestant, it would have been clear in my favour.

"I was advised to sue a writ of error, but I considered I had done as much as my duty required, and was not called upon by that duty to carry the matter further.

"Meanwhile, the other tenant in common (*the Roman Catholic*) died, and was succeeded in his interest by a *Protestant*. I expressed a willingness to give effect to the presentation which had been the subject of litigation—that is, of *Mr. Bradley*—but I declined accepting the presentation by Mrs. Edwards of another clerk, unless I was satisfied that *I ought to do so*; and as there would be no security for me to institute at all until the formal judgment of the Court was sued out, I required that this step should be taken; intimating my wish to do what I could for Mrs. Edwards, at the same time paying due regard both to the fitness of the case, and especially to the right of the other tenant in common, now a Protestant. The solicitor of Mrs. Edwards wrote letters to Mr. Barnes, in this state of the affair, so very unbecoming (as I considered them), that I refused to hear anything more through him.

"Thus the affair has rested for several months, nor have I heard anything of the parties or their claim since April last, until I received your letter this morning.

"I repeat that I have not the slightest personal feeling on the question (except a wish that Mrs. Edwards, an aged gentlewoman and a widow, should enjoy her full right); and therefore, if the Archbishop has the power, and thinks it right, under the circumstances, to exercise the power of instituting Mr. Edwards, I shall be well satisfied that the matter be so ended.

"I am, dear Sir,

"Yours, sincerely,

"H. EXETER."

Secondly. The case of Chudleigh. This was a case of patronage vested in trustees, under a deed of 1682, of trust to present the person nominated by the parishioners. In short, the nomination rested with the ratepayers, and was conferred by election in the usual way of parish elections. The number of trustees had been irregularly filled up. The deeds of trust were confessedly defective. An election took place. A clerk, the present incumbent, was elected by a majority. One of the six trustees declined to join in the presentation. The Bishop was dissatisfied with the conduct of the election, and being advised that there had not been made such a presentation as the Bishop was entitled to require, he refused to institute. An information was filed against the Bishop and all the parties, in the Court of Chan-

cery, in the name of the Attorney-General, and the Court established the presentation. It will be seen that the Bishop's insisting, where there are co-tenants, on a presentation by all the co-tenants, is the same ground as was taken in the Combpyne case; a ground which, I believe, is not only warranted by law, but that to deviate from it is to abandon the rules of law, and that the assertion of the rule is the only safe principle by which a Bishop can be advised to act. A full report of this case will be found in the second volume of Young and Collyer's Reports.

The case is touched on in the "Review" merely obiter; but the point insinuated is, that the objections to the title to present, although of a legal nature, originated with—were suggested by—your Lordship. Now the objections made were twofold: first, the illegality of the presentation; and secondly, that which specially offended your Lordship—namely, the indecorum and impropriety of the proceedings at the election. The objections to the title were mine; the Court decided against them. On the objections to the election the Court pronounced no decision. The Vice-Chancellor said, "I profess only to decide upon the mere question of title, without any reference whatever to the question whether there have or have not been any illegal proceedings beyond this. I do not consider that they are in issue before me. I do not intimate any opinion whether there have or have not been any illegal proceedings." And, again, "I cannot but think that there was quite enough to create in the mind of the Ordinary great disapproval of what had taken place, a strong desire to correct it, and a strong desire to prevent, if by any lawful means he could, the repetition of such proceedings, and thoroughly to investigate the circumstances." Where, then, is the ground of accusation against the Bishop, to be drawn from the circumstances of this case, of objecting to title for the purpose of catching at a lapse? The objections to the proceedings at the election were taken on grounds of ecclesiastical rule, and no decision has ever been pronounced on them. The objections to the title appear in the Report of the case. They are for lawyers to discuss, and for lawyers to form a judgment upon them. They have no place here; I have my own opinion on them, and am not unprepared, at any fit opportunity, to maintain it.

Thirdly. The case of Stockland. The Reviewer's Romance about Monmouth's Rebellion and Judge Jeffreys I may well pass over. He says, that the freeholders of the parish, (in 1688) purchased the advowson, and that "thus they became themselves possessed of the advowson as tenants in common, and their legal representatives have continued to exercise the right of presentation without dispute to the present time." This benefice having been transferred to the diocese of Exeter from that of Bristol, under one of the Ecclesiastical Commissioners' Acts, we had no record of proceedings under former presentations. The Reviewer's statement continues, "that Mr. Cox had become by purchase the representative of the majority of these original co-tenants, and thus virtually the owner of the advowson." He proceeds that, "on the avoidance of the living, Mr. Cox presented himself to it; but an opposition so suited to promote the Bishop's designs, that it might have been contrived by himself, was made to this

* I find that in this particular I was in error.—H. E.

presentation by the representatives of a small minority of the co-tenants." I will not do your Lordship the injustice of meeting this gross insinuation by even an indignant contradiction of it. The Reviewer says, that Mr. Cox had become the representative of the majority of the original co-tenants. I was never furnished with the means of ascertaining what proportion of the representatives of the original co-tenants had joined in the presentation of Mr. Cox. There was another presentation of another clerk, by others claiming to be representatives of other co-tenants. There were two presentations of Mr. Cox. The number of persons who joined in the first of those presentations was five, in the second three. The number of persons who joined in the adverse presentation was nine. But no means were ever furnished of obtaining satisfactory information in regard to what number of the original shares were represented in these several presentations. The Reviewer suggests that the Bishop might have issued a Commission "*de Jure Patronatus*." The Bishop might have done so, but it would have been a very idle sort of proceeding; for the return must have been, that neither the one party nor the other had a right to present. That point was palpable. Mr. Cox might have become by purchase the representative of the majority of the original co-tenants, or he might not. The fact was never made to appear, one way or the other; but if it were so, he did not thereby become, legally or virtually, the owner of the advowson; and the poetical effusion of the Reviewer did not thereby assume reality, that "thus the property had once more reverted to the same state in which it had been before the campaign of Jeffreys." The advowson had not once more reverted to the same state in which it was before the unfortunate sale and purchase in 1688. There were originally fifty-six co-tenants; and it was no marvel that the title to each share could not be easily deduced, but it had always been open to the parties looking forward to the exercise of the right of patronage at uncertain and perhaps long intervals to have provided for the power of legally exercising it. If they did not do so—if they permitted the right of patronage to get into such a mass of confusion as to make it probable that no power short of an Act of Parliament could or can set it right—if

thereby they have rendered it impossible for the Bishop to exercise, with justice, the powers which the law has entrusted to him, the complaint surely lies rather against the parties who have so involved the patronage in difficulties and disputes, than against a Bishop who, under such circumstances, refused to take a part with either one claimant or the other.

The charge may be summed up thus:—

The Bishop, it seems, "appears to act systematically upon the theory that all the patronage in the diocese rightly belongs to the Bishop, and that all means are justifiable which may defeat the claims of any other patron." The system attributed to the Bishop is this—that "upon the vacancy of a living, it is his practice (wherever he thinks there is a chance of succeeding) to demand the inspection of the patron's title-deeds." If any flaw be discovered, he refuses to institute. "At first the Bishop merely hints his doubts." "Were he at once to refuse to institute, the patron would bring a writ of *quare impedit* against him immediately, which would anticipate the lapse, and render it impossible to usurp the benefice." The charge, then, is brought to this, that, for the purpose of creating a lapse, objections to the validity of the presentation are concealed until it be too late to amend the defect. Now, the only instances produced in proof of this charge are those which I have detailed. The public will say whether they substantiate such a charge or not. This I think they will say, that, if it were a theory and a system, and if it bore no other fruits than those which have been alleged, it must have been a miserably foolish one.

In conclusion, my Lord, I restrain myself from all expression of my feelings on this extraordinary occasion, because I know that by this forbearance I best comply with your own wish. I may, however, be permitted to express my perfect confidence, that one who, like your Lordship, has lived so long before the world, strong in reliance on mightier than human strength, may safely defy every anonymous assailant.

I am, my Lord,
Your Lordship's obliged and very ob't serv't,

RALPH BARNES.

Exeter, January 26, 1852.

The Lord Bishop of Exeter.